Exhibit 11

08:55:02AM

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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AMBER DURHAM, Plaintiff	:	Case No. 2:21-cv-05417
vs.	:	
INSTANT BRANDS, INC., Defendant.	:	

- - -

Thursday, September 15, 2022

- - -

Remote videotape videoconference deposition of DAVID RONDINONE, taken pursuant to notice, at the location of the witness in Berkeley, California, on the above date, beginning at 12:59 p.m. Eastern Standard Time, before Jared E. Bittner, RPR-CSR and Notary Public.

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THE VIDEOGRAPHER: On the record. The following is a videotape deposition. My name is Rick Kanzinger, Jr., and I'm the videotape operator. This deposition is being taken on Thursday, September 15th, 2022, scheduled for one o'clock p.m. via Zoom. Today's case is Amber Durham versus Instant Brands, Inc., Civil Action No. 2:21-cv-05417. This is filed in the United States District Court Reporter in the Eastern District of Pennsylvania, and present for the taking of this videotape deposition are the witness, David Rondinone.

Would counsel please state their names for the record?

MR. CALLAHAN: Dennis Callahan for Instant Brands.

MR. KRESS: Adam Kress on behalf of the plaintiff, Perlock VJ.

THE VIDEOGRAPHER: The court reporter is Jared Bittner. Would the court reporter please swear in the witness?

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...DAVID RONDINONE, after having been duly sworn, was examined and deposed as follows...

- - -

BY MR. CALLAHAN:

Q. Good, I guess good morning for you. Good afternoon for the rest of us. My name is Dennis Callahan. As you know, I represent Instant Brands. You're here for a discovery deposition. You understand that?

A. Yes.

Q. And what did you do to prepare for today's deposition?

A. I reviewed my file. I reviewed an exemplar pressure cooker. I spoke with Adam yesterday for about five, ten minutes, and I think that's about it.

THE VIDEOGRAPHER: Off the record, 1:01.

(Recess; 1:01 p.m.)

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(Resumed; 1:02 p.m.)

THE VIDEOGRAPHER: Back on the

record, 1:02.

BY MR. CALLAHAN:

Q. Okay. So we had a slow start and a quick interruption. So to prepare you reviewed your file. You spent 10 or 15, or excuse me, five to ten minutes speaking with Mr. Kress and you looked at an exemplar unit?

A. Yes.

Q. Anything else?

A. I spoke with Mr. King in my office who worked on this project with me just as I was reviewing, but that was sort of my part of the review of the file.

Q. How long did you spend reviewing the file?

A. You know, I don't know, probably a few hours last week and a few hours this week.

Q. A few meaning what?

A. I have no specific number.

Q. You can't tell me how long you worked on it?

A. No, not exactly. I could say it was a few hours meaning probably one to five hours last week and one to five hours this week.

Q. Do you keep time records?
A. I do.
Q. Did you happen to record your time?
A. I do.
Q. All right. Do you have those records available? Could you look up how much time you spent?
A. My bookkeeper could. I could ask her to do that. Yeah, yeah, she could do that. I'm not sure how up to date her records are, like they may not include yesterday or today, but I could ask her to look up what the -- what's in the, what's in the system.
Q. What -- what examination -- what exemplar did you look at?
A. Oh, I think it was a, a 60 Duo Plus.
Q. Do you know the manufacture date?
A. I don't recall the date, no.
Q. Do you know how much time you spent altogether working on this matter in person?
A. I do not. I do not.
Q. Do you know how much time Berkeley Engineering spent working on it?
A. I do not, but our invoices would reflect

that.
Q. Do you plan to do any additional work related to the Durham matter?
A. Well, I plan to review what any other experts have to say. If they say something that I feel requires some type of analysis or work to address I would do that, and if I'm asked to prepare some kind of demonstrative for trial I would do that, and then I guess I would actually probably review. If it went to trial I'd do another, another file review.
Q. So you said if you were presented with an expert report from Instant Brands, you'd review that and possibly create a supplemental report?
A. Well, it might not be a report. It might be deposition transcript or his file or something like that. I don't know what's going to be presented to me.
Q. All right. But you haven't seen anything from the defense expert yet?
A. I only saw I think videos and photos that he took at his inspection. That's by no means his complete file, but there were

videos and photos.
Q. But you haven't seen a report?
A. I don't think so.
Q. I am going to share my screen.
Can you see that, sir?
A. I can.
Q. Plaintiff's Designation of Expert Witness, is that what you're seeing?
A. That is what I see.
Q. Have you seen this document before?
A. Possibly. I don't have a specific recollection, but I've seen a lot of these, so it's possible I've seen it.
MR. CALLAHAN: Okay. For the record, I'm going to mark the report and disclosure or the entire designation package I suppose as Exhibit 1.
(Exhibit Rondinone-1 was marked for identification.)
BY MR. CALLAHAN:
Q. And if we scroll down through this, this is you. You're designated as an expert witness. Do you see that?
A. I do see that.

Q. Okay. And if we jump ahead, whoops, there is your report beginning on Page 5 of this exhibit. Do you see that?
A. Yes.
Q. Okay. And this is signed by you and signed by Derek King?
A. Yes.
Q. And if we look at the report it is, has page numbers 2, 3. I'm going to skip ahead. This is the final page of the report, Section 7, conclusions and opinions. This is on Page 12; right?
A. Yes.
Q. Okay. Is this your full report?
A. Hold on. I think it is. Let me just pull up my PDF real quick. That sounds correct. Yeah, I think that's right. By the way, I did pull up a PDF of just the report and I did just look at that.
Q. Okay. As part of your preparation you reviewed your report?
A. That's true.
MR. CALLAHAN: Okay. Hold on a second. I need to find a document already.

I've already lost a document. All right. We'll find it. Let's go back to the first page of this. This is going to be Exhibit No. 2.

(Exhibit Rondinone-2 was marked for identification.)

BY MR. CALLAHAN:

Q. It's a document entitled, "Amended Notice of Video Deposition."

Do you see that, sir?

A. I do.

Q. Have you seen this document before?

A. I think I've seen something like it, if not this exact one. The one I recall seeing -- yes, I think this was it.

Q. Well, let's see if I can refresh your memory by skipping to the addendum which lists a series of documents, requests, Paragraphs 1 through 14. Does this refresh your memory if you've seen it?

A. No, because I've seen, I've seen lists that look like that many, many, many times. I don't have a specific recollection of this particular list.

Q. All right. First, if it comes up do you have the subject pressure cooker available to you today?

A. I don't think so. I think that that did not get returned to my office.

Q. Okay. By the way, where is your office located?

A. Berkeley, California.

Q. And where are you currently?

A. In my office.

Q. In Berkeley?

A. In Berkeley.

Q. Okay. No. 2 has exemplar pressure cookers examined by the witness during your review and referenced in your report. Do you have those exemplar pressure cookers available to you if needed?

A. The one I have available is the one that's the same model. Other exemplars that are referenced in the report I don't have readily available. They're -- they're stashed away somewhere where I can't get to them immediately.

Q. When did you -- when did you stash them?

A. Oh, probably, probably a while ago. I don't know. It would have been wherever my, my -- our office assistant would have put them away.

Q. Before or after you wrote your report?

A. Probably, you know, probably after. I would -- I would imagine after, but I don't -- I don't specifically recall when they were put away.

Q. Paragraph 4 is your entire, actually not your file, put Berkeley Engineering's entire file relating to this matter and relating to your examination of the subject pressure cooker. Has that been produced to your counsel for production to me?

A. Yes.

Q. Okay. And is there anything in your file that wasn't produced?

A. There were two documents that for whatever reason didn't get up in the share folder until yesterday. I was going through the file again yesterday and I recognized one document. I don't -- I have no idea why it wasn't there, and then there was another

document, the summary file that was on the share folder was an old version, so I put the latest version up there. I also sent copies of those to Mr. Kress yesterday so they could be distributed about. Everything is on there.

Q. Okay. I did receive two additional documents yesterday. We'll go through just for completeness sake what you sent to me including the two additions, but it was your intention to produce your entire file to Mr. Kress for production to me; is that fair?

A. That's fair.

Q. Okay. And have you produced all videos, video depiction test results, notes, et cetera, generated in connection with your examination of the Durham product?

A. Yeah, they were all part of my file.

Q. And have you produced all photographs, video depictions, measurements, notes, other items generated in connection with your examination of other products which you intend to rely on today?

A. Yes, those photos, I will probably refer

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to a few photos in the report, and I think that's all there is for that.
Q. Okay. Do you have any photographs, videos, test results or other items generated during the testing of a float valve in any pressure cooker?
A. I mean, I've tested dozens if not more pressure cookers and I do not have all of my test data in my file for this case. Many of them are not pertinent to this case.
Q. Are you relying on it for this case even though it hasn't been produced?
A. No. I would say no. I don't think they have any bearing on this case.
Q. Okay. How about No. 10, test results generally, have all the test results for any product on which you're basing your opinions in this matter been produced?
A. Yeah, because I don't think any of those test results apply to this case, so I would say that they're not -- they don't apply to this case.
Q. Okay. Have you produced all of the documents containing the facts or data

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considered by you in forming your opinions in this case?
A. Yeah, I believe those are all in the file.
Q. Have you created anything to date that you'll be used -- that will be used at trial to illustrate your points or your opinions?
A. No, I haven't created anything specifically for trial yet.
Q. And have the documents -- well, first of all, I'll ask do you have documents that will accurately state the amount of compensation billed in this matter?
A. My bookkeeper and Mr. Kress's office have all the invoices. I think that's what you're referring to. I don't have those in my file. I don't maintain those in my file.
Q. All right. Do you know if those have been produced?
A. That I don't know.
Q. Can they be produced?
A. Yeah. I don't think my bookkeeper is in the office at this moment, but I can certainly ask her to do that or Mr. Kress if

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he has access to them I assume could do that as well.
MR. KRESS: Yeah. Dennis, happy to supplement.
MR. CALLAHAN: Thank you.
BY MR. CALLAHAN:
Q. I'm going to bring up another -- well, it's not really a document. It is a, the electronic folder of what was produced. On the file share that was sent to me there were one, two, three, four, five, six, seven folders and three separate documents.
Does that sound accurate?
A. I -- I see that what you're showing me now does not include the two documents I sent yesterday. And just to be clear, one of the two documents I sent yesterday is a newer version of the materials document that you're showing on the file, yeah, that you're showing right now.
Q. Okay. There is a newer version of this materials summary?
A. Yes.
Q. Okay. And I'll acknowledge I did

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receive that.
A. Okay.
Q. This is just from your file share that was produced I think last week.
A. Yeah, that looks like it was a week or two ago or something like that.
Q. Well, I think it's dated the 6th, so it probably was produced on the 6th.
A. Okay. That sounds reasonable.
Q. Which is nine days ago, last week.
A. Okay.
Q. And then there is a notes section. This particular document just has two notes. Ivery is the mother of Amber. [redacted] is the young son of Amber. That's the only thing that's in that document?
A. Yes.
Q. And then you produced another document. I'm going to stop share for a sec. Hold on, I have to find it. Oh, I don't have it electronically available. I'll have to dig that out during a break, but it looks like it's typewritten notes, a text file of typewritten notes of the heater examination;

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is that fair?
A. Yes, I think that is fair.
Q. It looks like that.
A. Yes. I can't really read it, but I think that is -- I think, you know, it's fuzzy, but it looks like the right thing. I think you're correct.
Q. Okay. I'll go find it and we can look at it later, but that's, that's what I have. I think we're talking about the same document because that was the one that was sent to me yesterday.
Going back to what we had, okay, Folder 1, BEAR Administration --
A. Yes.
Q. -- this is just, this is basically the retainer agreement; right?
A. That is, yeah, the retainer agreement. I think there was an e-mail associated with the agreement and then a signed version of the agreement. I think that's what's in there.
Q. Okay. And then the folder marked "Evidence" contains what?

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A. So those are documents generated and photographs generated by my evidence manager when the evidence is taken in. So you'll see there are photographs of the pressure cooker. There is a tag of the pressure cooker that we put on the pressure cooker. It looks like there is a shipping tag for shipping the evidence to Mr. Matisse at FEA in Ohio, and I think that's it. I think that's what's in here. Oh, and a chain of custody as well.
Q. So this is a just a document of what was in the box that you received essentially?
A. And it also documents that we sent the evidence to somebody else.
Q. Therefore. And exemplars, what are these?
A. These are exemplar pressure cookers. I believe that they are all Instant Pots. Let me just flip through. Yeah, we've got a Duo Plus. We've got a Duo Plus and we've got a Duo Plus. Yeah, so we've got three exemplars that were taken in for this. I don't recall which of those three I looked at in my review for the depo, but that's, it documents the

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three exemplars that we do have in our possession here at BEAR somewhere.
Q. All right. You didn't test any of those three exemplars in connection with the Durham matter?
A. I don't think so, no.
Q. Nothing has been report -- nothing has been disclosed about a test; right?
A. I believe that is correct, yes. I think I visually looked at them, but I don't think, you know, we did any pressure testing or anything like that.
Q. There is a folder, "Documents Received." What's in here?
A. Well, this one is just the depo change notice that I received recently which was I think the one you actually showed me. It's showing the date and time for the depo.
Q. All right. There is a folder marked "Inspection." What is this?
A. These are photographs that we took here at BEAR showing the subject unit. I believe there is one video in there as well, oh, and it's showing the operation of the float.

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That's all. So that's, I believe that's what's in this folder. These are just photo -- these are just, these are documents that we generated during the inspection of the pressure cooker.
Q. Okay. Is this all the photographs of the inspection?
A. I believe that is correct, yes.
Q. Who conducted this inspection?
A. I believe that Mr. King was the one who actually conducted the inspection. I believe that it was Mr. King in this case.
Q. Did you attend the inspection with Mr. King?
A. So, yeah, I don't recall. I know I looked at the subject pressure cooker and I reviewed what was done during the inspection. I just don't recall if I was there for part of the inspection or not. I've seen so many of these that just, I can't -- I can't isolate it. I don't know.
Q. When did you -- when did you examine the actual unit involved?
A. I believe I would have looked at it

right around this same date back in April.
Q. When you say "looked at," what do you mean?
A. I mean visually inspected.
Q. Did you take photographs of your inspection?
A. No. I think all the photographs that we took are in this directory here.
Q. Okay. How long was Mr. King's inspection of the unit?
A. You know, I don't know. I don't recall.
Q. A couple hours?
A. Probably, that's typical.
Q. And how long was your inspection?
A. Um, well, I don't recall if I was present for the inspection that he was conducting, but I typically when I look at these it's only, initially it would only be for about an hour probably give or take.
Q. Do you recall what you would do during your inspection?
A. I typically would do a visual OEM inspection meaning look at all the parts, look at all of the physical damage if there

is any. I would place the parts together if there are parts that could be placed together, for example, place the lid on the base. Those are things that I would typically do.
Q. Did you take any notes of your inspection?
A. No, I don't think so.
Q. Why not?
A. There is no need. My note was going to be fully documented in the formal inspection, so I didn't feel any need to take notes at the time.
Q. Why didn't you take the time to look at it?
A. Because any time evidence comes in I like to take a look at it and see what we've got so that I can get, do sort of a preliminary mental assessment on it.
Q. Did you look at this product before or after Mr. King?
A. I don't recall the date that I looked at it.
Q. There is a folder, "Materials." What's

this?
A. These are materials that were provided to BEAR from Mr. Kress's office. They include three depositions, it looks like initial disclosures and requests, and then some discovery from, from Instant Pot.
Q. Did you review this information as part of your evaluation?
A. I did and my office did, meaning that I don't recall if it was Mingxi Zheng or Derek King who did the summaries, but I had them assist me in preparing the summaries, and then I reviewed the documents after the summaries were repaired -- prepared, so I could update those summaries and it helps me go through the documents a lot faster. I'm much more efficient when I do it that way.
Q. And "Received 8/30," what is this?
A. These are photographs and videos that I believe were taken by your expert at his office. They basically document the pressure cooker and I think they also document a couple of test s that he performed where I think he ran the, ran the cooker through a

cycle, relieved the pressure and then opened it. I think he did it, I recall him doing it both maybe two times. I'd have to look at the videos again, but I did review his videos as well.
Q. In here is a copy of your report, I believe --
A. Yes.
Q. -- also provided.
A. Yes, correct.
Q. And I am going to find that document for completeness here. I have to find out where you guys went. There you are.
Okay. Do you see that document?
A. Oh, yes. This is the note document that you were holding up earlier I think.
Q. Okay. And this was produced to me I believe on Tuesday. Monday or Tuesday, I can't remember now.
A. Yeah, that sounds right.
Q. And this is, this is all the notes that Mr. King took during his examination?
A. Yes, correct.
MR. CALLAHAN: I will mark the

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inspection notes as Exhibit No. 3, the document I just displayed.

(Exhibit Rondinone-3 was marked for identification.)

MR. CALLAHAN: And I wasn't -- I can't mark obviously the Windows Explorer window that had the, you know, showing what was in the file share, but...

BY MR. CALLAHAN:

Q. Sir, you are a mechanical engineer; correct?

A. That's correct.

Q. You would not consider yourself a hazard communications expert?

A. Only as it applies to engineering design.

Q. You don't -- you don't draft warnings for people, do you, or for entities?

A. I've drafted instructions and warnings for a product that I've worked on the design for, but I don't think I've ever been hired to, to draft warnings for something that I had nothing to do with.

Q. All right. There are people more

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knowledgeable about warnings than you out there professionally; correct?

A. Well, I'm sure there are.

Q. Okay. I mean, there are people that specialize in hazards communication; right?

A. I have met people like that, yes, and that's pretty much all they do.

Q. Okay. And that's not you?

A. That is correct.

Q. All right. You're not an expert in psychology or human factors or human behavior?

A. I would say that I am an expert in the human factor side as it relates to operator behavior and engineering design. I am definitely not an expert in psychology.

Q. Okay. Are there experts that specialize in human factors, people's interaction with a machine or a product?

A. I'm sure that there are. I'm sure that there are, although I don't know that I can name any.

Q. What's the nature of your expertise with respect to human factors?

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A. Well, the human or operator interaction with a device is inherent in the design, meaning that the designer needs to understand the way the operator will interact with the device, and that part of it is part of engineering design. You know, what's going through people's minds as they're operating things and the psychology of it is not. I can't address that.

Q. All right. Do you have any expertise in conducting consumer surveys of consumer experience with products?

A. Oh, you know, over the years I have conducted -- well, I've participated in some surveys over the years, but it's been a long while since I've done anything like that personally. That would have been like decades ago probably.

Q. All right. Would you consider yourself an expert in conducting consumer surveys?

A. I guess I don't know. I never really thought about that. I don't know.

Q. All right. Would you consider yourself an expert in judging consumer expectations of

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a product?

A. Yeah. As it relates to the engineering design, yes, I do.

Q. Same way -- in the same manner you told us before?

A. Correct.

Q. All right. Your report does not contain any opinions or conclusions regarding warnings; correct?

A. No, I don't think I have any opinions in this case specific to the warnings.

Q. You're not a physician?

A. I am not a medical doctor.

Q. And you've never conducted a study of burn injuries?

A. Well, no, that's probably not true. Not specific for this case, but in the past I have done work and analysis on burn injuries, but it's -- it had more to do with the engineering side of it, for example, what temperatures and exposures would lead to injury, meaning I've done surveys of engineering and medical literature that refer to that. So I'm not a medical doctor. I

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can't tell you what's going on with the skin and why it burns and that sort of thing, but I definitely have reviewed what it takes for typical burn injuries, but not specifically for this case. I didn't specifically do that for this case.

Q. When you say what's -- I can't remember how you described it. Are you referring to studies of like time temperature exposure related to burns?

A. Yes, yes, yes.

Q. Okay. So X number of minutes at 140 degrees can cause damage or a lesser number of 150 degrees might cause damage, that sort of thing?

A. Yeah. And I would also include that in addition to time and temperature, the material contact, so, for example, if it was with air or if it's with water contact will give very different results because of their thermal conductivity and heat capacity. So it would include all of those little bits and pieces, but to me that's more of an engineering approach as opposed to a medical

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approach. It didn't talk about what exactly happens to the skin or the cells or anything like that.

Q. Okay. Do you have any special expertise in liquid dispersion?

A. As it relates to the physics involved for the motion of the liquids, then yes.

Q. Describe for me, please.

A. Sure. So, so, for example, with a pressure cooker, if the pressure cooker lid is open while the unit is under pressure, the liquid would be ejected either vertically or horizontally depending upon the way that the lid is being held at the time and the way the lid separates from the cooker.

The motion of that liquid to me falls into what I think you're asking about, and the physics that dictates the motion of the liquid I think also falls into what you're talking about, at least that's my understanding of your question.

Q. Okay. Any other expertise?

A. Outside of the physics, I think that would cover it.

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Q. All right. Does water or liquid behave -- I mean, the liquid expelled from a pressure cooker or any other, from a hose or whatever follows the rules of Newtonian physics; right?

A. Yeah, I think that's fair.

Q. Okay. If it's going to be, I mean, if it's going to be move from point A to point B, a force has to be exerted upon it; correct?

A. Yes, a force has -- a force has to impart an acceleration which will impart a velocity which will then combine with, you know, gravity or any other external forces will dictate the motion of the liquid.

Q. Okay. And that's the nature of your expertise?

A. Yeah, I think that's fair.

Q. Okay. Have you ever been employed by a product manufacturer?

A. We have been employed by product manufacturers, yes.

Q. That's not my question. My question is you personally, have you ever been employed

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by a product manufacturer?

A. Only through my work at BEAR, not as an employee directly with that product manufacturer.

Q. You started with BEAR actually during school; correct?

A. I started with BEAR, yeah, just -- when was that? It was probably just before my Bachelor's.

Q. Before achieving your Bachelor's degree, not starting it?

A. Oh, yeah, correct, just before achieving my Bachelor's. I already -- I was already a student at the time.

Q. Got it. And you've been with BEAR since, ever since I should have said?

A. Yes, that's correct.

Q. All right. You said BEAR has been engaged by product manufacturers. By whom?

A. Oh, that's a pretty broad swath. The ones that I've worked on that I'm familiar with would include like power companies and refineries that manufacture their own components, suppliers for those, for those

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types of industries. Oh, I've worked directly with biomedical device manufacturers. I've worked directly with OEM manufacturers for automobile production. I worked directly -- I guess once I worked with a guy who was going to produce a climbing wall. I -- there is -- I'm sure there are others, too. I mean, those are the ones that come to mind.

Q. Your, in your expert disclosure a CV was attached. It lists a whole number of publications. Would you agree that none of them relate to pressure cookers specifically?

A. I think -- well, I think in that list that might be true. I mean, I haven't looked at that list in years to be honest with you. I don't think it's been updated in a long time.

Q. So is that a yes, you haven't written an article, published an article related to a pressure cooker outside of litigation?

A. I think that's fair. Yes, I think that's fair.

Q. Okay. Are you aware of any generally

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accepted literature relating to pressure cooker design?

A. Outside of like the UL standards and the industry standards I would say no, those are the ones that I'm aware of.

Q. What UL standards?

A. 1026 and 136 are the ones that come to mind.

Q. What's the scope of UL Standard 1026?

A. 1026 I believe is the electronic pressure cooker standard, and 136 I believe is the stovetop standard, but 1026 had language that indicates that parts of 136 should be applied to the electronic pressure cookers, specifically the lid interlock mechanism. So those are the two together I'd say that would make up those documents.

Q. If a product goes through the UL certification process, does that indicate the product is not defective?

A. No, I think that no. I would say that it just means that whoever tested it to whatever test, testings they put it through, it passed those tests.

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Q. Okay. If a product does not go through the UL certification process, does that mean it is defective?

A. Not necessarily. I mean, it depends on the product and how it's designed.

Q. Can you think of any other design standards other than the UL standards that you say apply?

A. I can't think of any right now.

Q. Okay. I almost pressed leave.

A. Good thing you didn't.

Q. Going back to your report as Exhibit 1. Skipping ahead here, okay. Here is your resume, your curriculum vitae.

A. Okay.

Q. And I want to skip ahead to your testimony list.

A. Okay.

Q. The testimony list that I was provided of the most recent testimony is November 19th of 2019.

A. I see that.

Q. I know there has been COVID, but you've testified since then, have you not?

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A. I certainly have. I'll have to talk to my office to see what the most updated version is. I know that my office -- yeah, I guess I don't know how often they update it, but I assume they update it about once a year. I know with COVID -- I know in the early part of 2020 and even into the early part of 2021 I had very, very few depositions. Sort of after COVID hit things sort of hit a -- they hit the brakes on that. It wasn't until probably about a year ago that it started up again, but I'd have to talk to my office to see what the most recent version of this, of this list is, because I know I have definitely had depos since November 2019.

Q. In calendar year 2022 how many depositions have you given, do you know?

A. I don't know specifically, but I would estimate maybe five or ten. I'm not sure, something in the -- maybe a few more than ten, but it's not tremendously more than that.

Q. How many of those depositions related to

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pressure cookers?
A. Oh, probably I would say at least five have been pressure cookers. I don't have a specific number, but it's been a fair number.
Q. Just in 2022 I'm asking.
A. Yeah, correct.
Q. Okay. Do you remember the case names?
A. No, I don't.
Q. Do you remember the manufacturers?
A. I think there were Maxi-Matic, Tristar, maybe, maybe Bella. I'm -- I'm not sure about Bella. I think there might have been a Bella or two. I don't think there have been any Instant Pots.
Q. When you testify at a deposition, do you consider yourself in the expert in the topic discussed at the deposition?
A. I do.
Q. Okay. So just look at the list you have here. November 19, 2019, you testified regarding a motorcycle gas tank.
A. Yes, that's correct. That was the physics and failure of the material of the gas tank.

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Q. All right. So you consider yourself an expert in that field?
A. Certainly.
Q. And the next one down, Sanchez, what was that case about?
A. I don't recall what that one is about.
Q. Ryan Rainwater was a propane heater. Do you consider yourself in that product as well?
A. Yes. Yes, because that's also just straight up mechanical engineering.
Q. The next one, fridge water line leak, do you consider yourself an expert in fridge water lines?
A. Yes. That's just mechanical engineering.
Q. This Becerra versus Illinois Tool, what was that case about?
A. I don't recall.
Q. The Hawkins case, gasoline container explosion, again, you're an expert in that field?
A. Yes, that was also mechanical engineering.

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Q. The next one, concrete hose, you were an expert in that?
A. Well, I don't specifically recall that case, but if it was a concrete hose that would also be mechanical engineering. I think everything here is going to be mechanical engineering.
Q. How many matters -- you haven't testified in every case; right?
A. Oh, no. No, it's probably just a small percentage.
Q. What's the percentage of cases you've testified versus the percentage of cases you have evaluated?
A. I have no idea. I don't keep that statistic, but if I had to estimate maybe one in ten, maybe.
Q. So for every deposition here there is ten other -- there is nine other cases where you did an evaluation, wrote a report, but did not testify?
A. Well, that's not what I said. Some of them don't require reports at all. Some of them are just sort of preliminary work and

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doesn't get any further.
Q. Okay.
A. And like I said that ten is an estimate. So we can't say one is a depo and nine are not because that's -- that kind of specific number I'm not giving you. I'm just -- that's a big, round number. That's an estimate.
Q. All right. But using your estimate, for every case that walks in the door approximately one time you testify and nine other times you don't testify, whatever happens in that case?
A. That's possible. Yeah, that's possible.
Q. Okay. And I'm not making that number up, I'm using your estimate, estimate to do that math; right?
A. Oh, yes. Yeah, as long as you're aware that it's an estimate then I think that's fair.
Q. Okay. And is that true with pressure cookers?
A. Um, maybe. I guess I don't have a specific on that either, but it's probably at

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least in that ballpark.
Q. Okay. How many pressure cooker matters have you worked on, whether or not they ended up in a deposition or testimony?
A. Yeah, I would estimate, oh, 100 plus or minus 25 or something I guess. That's a very, that's a very rough estimate, but it's in that ballpark.
Q. And this is you personally?
A. Yeah, I personally looked at those pressure cookers.
Q. Anybody else that looks at pressure cookers at Berkeley Engineering?
A. Well, Mr. King works on a lot of the pressure cookers with me. We work on the cases together. He's probably worked on some without me, but I don't really know since I don't track all of his work. Maybe Dr. Stevick has worked on some that I don't know about. I guess -- I guess I don't know. It's possible. I wouldn't rule it out.
Q. Okay. When you work on pressure cooker matters, is it always for the plaintiff?
A. I think on pressure cookers that's true.

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Q. Otherwise in your other work is it mostly for plaintiffs or --
A. Well, I don't keep a specific track of that and I know it does change like week to week and month to month. So there are some weeks that it's majority plaintiff work and there are some weeks where it's majority defense work, but I would say on average it's majority plaintiff meaning over half the work is plaintiff on average, but I know that there are many weeks where that is not true.
Q. All right. You've had cases -- you've had pressure cooker cases against Tristar you said?
A. Yes.
Q. Maxi-Matic?
A. Yes.
Q. Cook Essentials?
A. Cook Essentials, that does sound familiar. I guess I don't -- I don't specifically recall, but that name does sound familiar. I bet there have been.
Q. All right. Sunbeam?
A. Yes.

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Q. Farberware?
A. Farberware, yeah, that does sound familiar. I bet a couple of those have come across.
Q. Instant Brands?
A. Yes.
Q. Cuisinart?
A. I think so. I think so.
Q. All right. And how about Fagor, F-A-G-O-R?
A. Oh, you know what, that one sounds familiar, too. I bet I've seen -- I bet I've seen one or two of those.
Q. Gourmia, G-O-U-R-M-I-A?
A. Gourmia, Gourmia also sounds familiar. I guess I -- I don't have a specific recollection of theirs being a pressure cooker, but I think. I want to say I think so.
Q. How about Insignia?
A. I don't know.
Q. Presto?
A. That one sounds familiar. I don't know. Did Presto do the Wolfgang Puck? I guess I'm

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not sure about Presto. I'm not sure.
Q. All right. How about Breville for Williams Sonoma?
A. That one does not sound familiar, so I guess I'm not sure about that one.
Q. All right. Royal Prestige?
A. I think I have seen Royal Prestige, but I'm not sure if those were electronic or stovetop. I guess I don't -- I don't recall. I'm not sure. I'd say I'm not sure for that one, but it does sound familiar.
Q. Ninja?
A. Yes, I have seen a Ninja maybe once.
Q. T-fal?
A. Say that again.
Q. T-fal?
A. Can you spell it? No, T-fal, T-f-a-l?
Q. Yes.
A. You know, I'm not sure about that one.
Q. Okay. Admiral?
A. That one sounds familiar, but I'm going to say I'm not sure.
Q. How about Philippe Richard?
A. Yes, I have seen Philippe Richard, but

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those have might have also been stovetops as well if I remember right.
Q. All right. You make a good point. I'm going to go back and ask you that question when we're done with this list.
How about NuWave pressure cookers?
A. That sounds -- that does sound familiar, but I don't have a specific recollection of seeing one of those, but I bet I have.
Q. All right. Cosori?
A. Yes.
Q. Wolfgang Puck?
A. Yes.
Q. Any others that you can think of that I didn't list?
A. Well, for some reason the name Bella is coming to mind, but I don't recall what the manufacturer's name is. That might just be a brand.
Q. Okay. Any others?
A. Not that I can think of. There may be, but I can't think of any.
Q. In any of these pressure cooker cases, did you write reports saying that the product

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was not defective?
A. That I don't know. I'm guessing probably not, because I -- because I imagine that if I told the client it wasn't defective they wouldn't ask for a report.
Q. Did you ever find one of these products to be not defective?
A. You know, that I'm not sure. It is possible. I guess I don't have a specific recollection of that, but I do recall that there were some where we called the client and said there is just nothing here, but I can't tell you specifically what that would be.
Q. You can't tell me that manufacturer?
A. No.
Q. Did you ever call the client and tell them that the Instant Brand's pressure cooker was not defective?
A. That I don't know. I don't recall doing that, but I wouldn't rule it out.
Q. In the course of your work evaluating these products for plaintiffs, you found that one or more of these products was defective

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because it lacked an appropriate locking mechanism; is that fair?
A. That's true in many of the cases, yes.
Q. Okay. Is that a lack of a locking mechanism or an inadequate locking mechanism?
A. No, I think they all have locking mechanisms that they believe are locking mechanisms, but in many cases the mechanisms are not sufficient locks meaning you can just open them by hand.
Q. And you don't express that opinion in this Durham matter, do you?
A. That's true.
Q. Have you found a product, a pressure cooker to be defective because the float valve is too low and not visible to the user?
A. Yes, I do.
Q. Have you found a product, a pressure cooker to be defective because the float valve is too high and subject to being accidently depressed and unlocked by the user?
A. You know, I don't specifically recall that. I guess that could have -- that could

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be, but I don't have a specific recollection of that, but I guess I wouldn't rule it out.
Q. Have you found a pressure cooker defective because it gets pressurized when not fully close -- closed? Sorry.
A. Yes.
Q. Have you found any of these pressure cookers to be defective because they get pressurized when not fully locked?
A. Yes.
Q. Have you found any of these pressure cookers to be defective because they lack a magnetic or mechanical lid sensor?
A. Yes.
Q. Have you found any of these products to be defective because they're susceptible to valve clogging?
A. Yes.
Q. Have you found any of these products to be defective because it lacked an antilock shield to protect against or reduce the risk of valve clogging?
A. Yes, but I would expand that to say either a shield or like a full baffle which

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is common on some designs.
Q. Have you ever found a product, a pressure cooker defective because the valves weren't adequately accessible to the user?
A. Acceptable? I'm sorry.
Q. Accessible.
A. Access --
Q. They couldn't be reached by the user for cleaning and maintenance.
A. That I don't recall.
Q. All right. Have you found any other defects in pressure cookers?
A. Well, there are some pressure cookers that open, that close counterclockwise and open clockwise, which is the opposite of every, almost every other consumer product in the world.
Q. And you consider that a defect?
A. Yeah, because that can easily lead to operator confusion. That's not the case here. I believe the Instant Pots closed in my opinion the correct way.
Q. All right. Any other defects you found over the course of your work?

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A. Some of the interlock mechanisms are defective because they can bend over time, meaning they're weak, meaning they may start stronger but then after being used may become weaker. I would say that some of them have interlock mechanisms that, that can be defeated if the lid assembly becomes loose. That's mostly for stovetops. That's not for electronics in general. I'd say that's probably it. I'd say otherwise you've listed them.
Q. Okay. Do you think pressure cookers should be taken off the market?
A. I think that -- I think that many of them should, yeah.
Q. Which brands do you believe should be taken off the market?
A. Well, I would say that any of the brands that don't have the proper locking mechanism or the proper lid detection mechanism or the proper I would say valve protection or anti-clog protection mechanism, but those are the -- those are the key ones that come to mind. Most of the pressure cookers keep in

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mind have many multiple defects, not just one.
Q. Can a pressure cooker be designed safely?
A. I'm sure that it could, yeah.
Q. What's the safest pressure cooker out there? Do you have an opinion on that?
A. I guess I don't -- I guess I don't know. I guess I don't know.
Q. Have you ever concluded in your work that user error and not a defect, not a defect was the cause of the user's injuries?
A. I think that I have concluded that the user behavior certainly contributed, meaning the user would open it under pressure, while it was under pressure, meaning that the user behavior contributed to the event and without that behavior the event wouldn't occur.
I know that I've had that opinion many times, but it's my opinion that if the design allows the user to open it, then the design is defective. The design should not, should prevent that from occurring.
MR. KRESS: Dennis, do you mind if

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we take a quick five-minute break?
MR. CALLAHAN: Before I forget can I ask my stovetop electronic questions and then just kind of close this loop?
MR. KRESS: 110 percent. Go for it.
MR. CALLAHAN: All right. Thanks. Actually two questions, Adam. Sorry, I lied to you.
MR. KRESS: No problem.
BY MR. CALLAHAN:
Q. As far as user error, is that something you consider in every case?
A. That's always considered. The user behavior is always considered.
Q. All right. And in every case where you found a defect, you concluded that user error wasn't, wasn't the cause of the accident?
A. I would say that user behavior contributed in many of the cases, but there were some cases where it didn't even come in at all.
Q. All right. You mentioned stovetop and electronic pressure cookers. They are

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fundamentally different devices; correct?
A. Well, they're different in the method by which heat is applied to the cooker and the electronic ones usually have electronics in addition to the other mechanisms that are present on the stovetop. So they're definitely different, but I think the fundamentals are the same, like they both require heat to generate pressure which causes food to cook at a higher temperature. So from the physics fundamentals they're the same. From the design standpoint I think there are a lot of differences.
Q. Okay. When we were talking about pressure cookers before and the number of pressure cooker cases you've evaluated, how many were electronic and how many were stovetop?
A. I would say that the vast majority are electronic. I don't have a specific number because we don't keep track of that, but I know the vast majority were electronic.
Q. Could you put a rough percentage on that?

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A. No. I mean --
Q. Something greater than 51-49, right?
A. It's definitely greater than 51-49. I would say it's probably --
Q. 90-10?
A. Yeah, I would say maybe I'd say between 70 and 90 percent electronic, somewhere in that range, you know. I don't have a specific number. It's really -- that's very hard, but that's a very rough estimate, but that's probably the best I can do.
MR. CALLAHAN: All right. Thank you. We can take a break.
THE VIDEOGRAPHER: Off the record. The time is 2:02.
(Recess; 2:02 p.m.)
- - -
(Resumed; 2:08 p.m.)
THE VIDEOGRAPHER: Back on the record, 2:08.
BY MR. CALLAHAN:
Q. Are you familiar with the scientific method, sir?
A. Yes.

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Q. In your PhD work you applied the scientific method; correct?
A. That's correct.
Q. And when you wrote your thesis you had to support your results and your hypothesis with facts and experimental results; right?
A. I did.
Q. You had to justify your conclusions to the scientific community, community represented by your PhD committee?
A. Correct.
Q. You generally -- well, essentially you had to convince that committee that your conclusions in your thesis were worthy of general acceptance in the scientific community?
A. I think that's fair.
Q. And if you hadn't presented facts and data to support your conclusions, the committee would have rejected your thesis?
A. I guess I don't know. I don't know. I would -- maybe.
Q. Wasn't the whole point the review process?

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A. The review process I think was to ensure that, that the work was done in a competent fashion and was presented in a competent fashion, but that doesn't necessarily mean that the whole engineering community would accept it as gospel. I don't -- I don't know all that's true.
Q. Fair. But if you had just written I think X is true, trust me, you would not have your PhD now; right?
A. That's probably true.
Q. Okay. You had to present facts and data to support your conclusions; right?
A. I believe that's true.
Q. All right. And if you hadn't, the committee would be correct in rejecting your hypothesis as unsupported; right?
A. If they felt that additional work needed to be done, they would have told me.
Q. Okay. The scientific method generally is you collect the data; right?
A. Well, usually the --
Q. Step one?
A. -- scientific method -- no. Usually the

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first step is to evaluate your hypothesis meaning what do you think is happening.
Q. Okay.
A. Then the second step would be to evaluate that, and then the third step would be to draw conclusions.
Q. Okay. Your first step is create the hypothesis?
A. Correct. You want to evaluate what you believe is occurring.
Q. All right. Until the hypothesis is proven it's just a hypothesis; right?
A. Well, I mean at that point it's something that, that could happen, but it's not something that you've not necessarily demonstrated physically.
Q. All right. It could happen, it could not happen until you demonstrate that it's true; right?
A. Well, no. You can use physics to demonstrate that something could happen. I think if you want to do -- if you wanted to evaluate statistically how often it happens and what it takes to happen, then you would

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need to do more work if you wanted to fill in the statistics.
Q. All right. It sounds like what you're describing is just proof of concept, like I think this could happen. That's your hypothesis; right?
A. Yeah, but if it's based upon physics and your experience then it's not just, well, I'm going to make up something and it's random, here it is. It's something that's based on physics and experience so that you can say, yeah, I believe that this is -- this is how it's going to happen, and you do have physics and experience to support it, but you can't say statistically how often or when unless you want to support that statistics with testing.
Q. All right. And you also can't even determine whether it will happen until you do some further work; right? I mean, you just can't rely on one experiment?
A. No, you can rely on physics, right. The physics will tell you. So, for example, let's take the pressure cooker for an

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example. It's my opinion in this case that the most likely scenario is clogging of the float valve which allows pressure to build without the float valve sealing and engaging the interlock.
We know that certain foods will perform the clogging mechanism, right. I've tested other pressure cookers where we've been able to clog orifices with foods that are fibrous or foods that are fatty or foods that combine with each other to make sort of a gummy substance stuff, you know, something that clogs.
I know that from experience that it's, that it's possible to clog these valves. I also know from experience that the lid can be opened when they're under pressure if the interlock is not interlocking.
You can combine those experiences along with the physics to then say that the most likely scenario is that a clogging while the interlock is not interlocking can allow for an opening under pressure which is described in this case. And in my opinion,

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that does follow the scientific method and that is relying upon physics and experience to do it.
Now, am I saying how often it happens or what the statistics are about it, no, I'm not, because if I wanted to do that -- like let's say, for example, I wanted to say that it's impossible for this to happen. Well, then you'd actually have to do a statistically complete study in order to say that, right, because one in a hundred is not the same as it's not possible.
And so I'm not providing statistics, and I don't know if any of the other experts in this case are, but if you wanted to say that it was impossible or that it's only possible at this frequency, then you would need to do the statistical studies to support that, but if you just want to say that it is possible, in my opinion you are following the scientific method when you rely on physics and experience to do so.
Q. Okay. So are you characterizing your opinion and the application of the scientific

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method by stating your opinion, this is possible, in some statistical whatever, it's possible? That's all you're saying; right?
A. Well, in this case I would say that it's possible and it's also what's described by the witnesses, which means that it's the scenario that best matches the, the description of the witnesses.
Q. All right. And in your application of the scientific method in this case, it's your opinion that testing isn't necessary?
A. Not if -- no. It is my opinion that testing isn't necessary, however, if someone were to rely on testing to prove the opposite, to prove that it's not possible, then they would have to perform a statistically complete study, you know, not two or four or ten tests. That's nowhere near statistically complete.
So if you wanted to say that it was impossible, then you'd have to do a statistically complete study. If you want to say that it is possible, all you have to demonstrate is that it's physically possible,

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meets the description and meets your experience, because you're not saying how often it's possible. It could be one in a hundred. It could be -- could be one in a thousand.
Q. It could be one in a hundred million, couldn't it?
A. I guess I wouldn't rule that out. That to me seems unlikely, but simply because, you know, I've probably seen half a dozen or a dozen Instant Pot cases where people describe events very much like they're described here. And I -- it's not -- I'm not aware that Instant Pots have sold tens or hundreds of millions of units. So I guess if you want to give me a hypothetical for those kinds of really high numbers, you'd have to -- you'd have to demonstrate that to me.
Q. How many Instant Pot cases have you evaluated?
A. I would estimate, I'm going to ballpark it around 10-ish, but I'm not sure. It could be more.
Q. How many times have you written a report

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stating that the float valve clogged?
A. For Instant Pot?
Q. Yeah.
A. You know, I don't know. I don't know.
Q. You can't tell me any other case here where that, where you wrote that report?
A. Yeah, I don't recall.
Q. So in your experience you can't offer any other Instant Pot case where the float valve clogged causing this type of incident?
A. No. I just don't know that I've ever written any reports for any of those other cases.
Q. And again my question was you can't point to any case. You have no other incident to point to to support your conclusion here, do you?
A. I guess not specifically. I mean, I recall that there was a California lawyer who had an Instant Pot case that came to us, maybe two, but the description of those events is consistent with the clogging event. I don't remember the name of that attorney, and I -- and I'm sure there have been other.

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I just don't remember all the cases specifically, so I can't give you a specific name.
Q. But you haven't written a report stating that. That is -- that is certain, right?
A. Well, that's not certain. I just don't recall writing a report for an Instant Pot where that was the case. I just don't recall.
Q. All right. So the way you're applying the scientific method here, do you believe that's a generally accepted application?
A. As long as you recognize that you're not going to be able to give a statistically complete answer, then yes.
Q. All right. Is your -- and you can't offer any statistics? You're not doing that; right?
A. I am not doing that, correct.
Q. Okay. In your -- well, let me ask it this way. In your review of this case did you analyze the information fairly?
A. I believe I did, yes.
Q. And would you agree that -- well, and

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the information in this case is essentially data to a scientist; right? All the information is the data; is that fair?
A. Yeah, I think you could call it that.
Q. Okay. So the data can come from an examination of the -- well, your associate's physical examination of the unit; right?
A. And my physical examination of it as well.
Q. Okay. And one test you conducted on the unit; correct?
A. Um, yeah, I would include that, yeah.
Q. All right. And the data would also be the testimony of the witnesses; correct?
A. That's true.
Q. Any other data sources that you can consider here?
A. Well, I usually consider the -- well, I have -- in this case, for example, I have videos and photographs to consider from the other expert.
Q. Okay.
A. From Mr., I think it's Mr. or Dr. Matisse. I don't recall. I don't want to

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mess up, mess that up, so I would also include that.
I guess I would include the documents that were provided to me in the case, not just the depositions, but also whatever information was available through that documentation.
Q. All right. Anything else?
A. No, I think that's it.
Q. Applying the scientific method, what do you do if the data doesn't agree or if there is conflicts in the data?
A. You evaluate it in its entirety and you look for what is consistent, what is the most consistent scenario or solution that applies, because it's quite common for witnesses to, you know, misremember things or not have specifics in terms of time, size, distance. You know, those things are typically not well remembered based on my experience.
Q. You don't have any special expertise in judging what a witness can or cannot remember, do you?
A. Not as a psychologist, no, but I mean

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I've seen testimony from probably thousands of witnesses over the years, probably many thousands, and it's not uncommon in my experience for witnesses to not be 100 percent accurate in their recollections. I mean, that's almost impossible I think in my opinion.
Q. But that's true with anybody; right? I mean, you talk to somebody on the street corner about what happened on Friday; right?
A. Oh, no, I one hundred percent agree with you, yeah.
Q. All right. Is your expertise any different than anybody else on the street?
A. In terms of that, like in terms of that in psychology, no, it wouldn't be any different. I'm not a psychologist.
Q. Okay. Applying the scientific method, does it sometimes happen you just don't have a solution because of a lack of data?
A. Yeah, I guess that could be possible. Yeah.
Q. Sometimes conflicting data would lead to the inability to draw a conclusion?

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A. It could.
Q. And applying -- and analyzing the information fairly in this case, do you think you can lead to a conclusion about what occurred?
A. Yeah, I -- yeah, I do believe so, and I believe that I've already stated what I think the most likely scenario is.
Q. All right.
Turning back to your report. We marked it as Exhibit 1, 12 pages; right?
A. Yes.
Q. And just so it's clear for the record, your report was dated August 12th of 2022?
A. Yes.
Q. That's the only report you've written?
A. For this case, yes.
Q. I'll bring it up so we're all looking at the same document. Sorry. You've prepared perhaps thousands of reports over the course of your consulting career?
A. Yeah. It's been almost 30 years. Yeah, that's probably fair. I mean, I guess I don't have a number, but it's a lot .

Q. All right. And do you have an understanding of the purpose of your report and your expert disclosure?
A. Well, my understanding of it is it's to express my opinions and the description and support for those opinions.
Q. All right. Is it your understanding that your report is to be a complete statement of all opinions?
A. That does sound -- that sounds fair.
Q. And would you agree your report is intended to be a complete statement of the basis for those opinions?
A. I would say my report plus my file in its entirety as well as my experience would all support the opinions in the report.
Q. All right.
A. The report is not -- by the way, the report is not intended to include everything that's in my file, right. That's not -- I don't take that to be the understanding of my report.
Q. All right. But you do, you do understand this to be a complete statement of

your opinions?
A. I do. I think that's fair, yeah.
Q. And is it?
A. Yes, it is.
Q. Does the report and your expert file disclose all the facts and data you considered in forming your opinions?
A. That plus just my professional experience, but that's obviously not entirely included in the file.
Q. All right. And is it your understanding the report is intended to disclose any exhibits you've used to summarize your opinion at trial?
A. Well, I don't know that the report's intended to have trial exhibits if that's what you're suggesting because that isn't my understanding.
Q. All right. It does not is what you told me before; right?
A. Yeah. Like so for example -- yeah, I would say it does not, yeah.
Q. Okay. But you do agree that your report is the complete statement of all of your

opinions?
A. That is true.
Q. And you'd agree that everything you relied on in preparing your report has been either identified in the report or identified in the file that was sent to me?
A. Right, or identified as part of my professional experience.
Q. Did you withhold any opinions from us?
A. No, I don't think so.
Q. You'd agree that good engineering and scientific practice requires you to disclose all of the facts and data you considered; correct?
A. I think that's fair.
Q. And would good engineering and scientific practice require you to consider all reasonable alternatives or explanations?
A. Yes, I think that's fair.
Q. Is it your opinion that you applied good engineering and scientific practices in this evaluation?
A. Yes.
Q. Do you agree that if an opinion isn't

stated in the report, it is either not scientifically supportable or not relevant to this case?
A. Or it's not an opinion that I hold.
Q. Yes.
A. I mean, there are plenty of opinions that are not in the report, right, but they don't apply.
Q. True. And I'm not going to ask you opinions of what you think of me either. I'll restate my question. If an opinion of yours isn't stated in the report it's either because you don't hold that opinion, it's not scientifically supportable, or it's not relevant for the case; is that fair?
A. I think that's fair.
Q. I think I asked you, but maybe I didn't ask you before. Do you plan on doing any additional work in this case?
A. Yeah, that was one of your first questions. I'm going to look at what other experts have to say in deposition or otherwise, their entire files. If I feel like additional work needs to be done to

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address what they say or what they have in their file, then I would do that. If I'm asked to prepare some kind of exhibit or assist in the preparation of an exhibit for trial if it goes to trial, I would do that. If it goes to trial, I would also prepare for trial.

Q. All right. But you don't have anything planned currently?

A. That's true.

Q. Okay. I'm going to skip ahead to the end the story here on Page 4 of your report. You can see this, right, I'm sharing?

A. I can, yes, and I've also got it up on my screen as well, full size as well, so yes, I do see that.

Q. Section 7, Conclusions and Opinions, you state four conclusions here; right?

A. Correct.

Q. And your report which you intended to be complete only has these four conclusions; right?

A. That's correct.

Q. All right. Up here you have a phrase

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listed -- "Your conclusions and opinions listed below are to a degree of engineering certainty."

A. Yes.

Q. What does that mean?

A. That means that in my opinion they are the most likely -- they're -- they're, well, I guess more likely than not to be true, meaning that you can never be 100 percent certain on anything. I mean, physics just clearly just dictates that.

So the -- so my opinion, what I'm stating is that my opinions are true to, to a degree that's less than 100.00 percent, but are the most likely scenarios and most likely to be true.

Q. Well, you put a percentage there. Can you give me a percentage of how certain your conclusions are?

A. No. I can tell you that they're not 100.00 because nothing can be. Physics dictates that.

Q. All right. And you can't give me any other estimate than that?

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A. That's true.

Q. You're not certain, but you don't know how uncertain you are?

A. I know I am certain to a degree of engineering certainty which to me means it's the most likely. I cannot give you a number for that.

Q. All right. "Most likely" meaning what, 51 percent chance?

A. I cannot give you a number for that.

Q. Well, could it most likely be 10 percent?

A. No. I think most likely it would have to be at least 51 percent.

Q. So somewhere between 51 and 99.99?

A. Yeah, if you want to give it a range.

Q. Is that the best range you can give it?

A. I cannot give you a number or a range any different.

Q. You do have agree there is some uncertainty though?

A. There, there is always uncertainty. Physics dictates that. There is always uncertainty.

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Q. And your conclusions are based upon your current understanding of the facts; right?

A. That's true.

Q. You didn't state that. If new information becomes available you may modify your opinions; right?

A. I did.

Q. You did, meaning you said that you haven't changed your opinions yet; right?

A. I did state that. I thought that was your question was if I stated that.

Q. My question might have been a little vague. I'm sorry.

A. I did state that as the answer.

Q. Okay. If the facts -- well, you have a certain understanding of the facts; right?

A. I do.

Q. All right. And if that understanding were to change, your opinions might change; correct?

A. That's true.

Q. And if you -- you would agree that if a plaintiff's recollection of the events changes materially your opinions might change

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as well; correct?
A. That's true.
Q. And would you agree that if the jury rejects your scenario, your factual determinations and determines a different set of facts that the jury would be justified in rejecting your conclusions based upon your facts?
A. I have no idea how to evaluate whether a jury is justified or not. I don't know how to do that.
Q. Okay. Well, let me ask it this way. Well, I'll go with what I asked.
You have four conclusions; right?
A. Yes.
Q. Can you rank them as to which one is the most certain?
A. No, I don't know that I would rank them. I mean, I would say that number 1 is probably the lowest because that first opinion is only an opinion that had Instant Pot not performed a suitable risk assessment that would contribute, but, and I have no evidence that they did perform such a risk assessment, but

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I don't -- honestly, since I wasn't present at Instant Pot during the entire design and development phase, I can't say I was there and that they didn't do it.
Q. All right. Can you rank if that's the least certain what's the next least certain?
A. Well, I mean, I don't know that I'm necessarily ranking them, but I would say that based upon the opinion itself that's how I would probably put it in the ranking. The others I'd say are probably all together all about the same. They're all kind of related to each other.
Q. All right. I'm just trying to get -- I mean, you wrote in your report "degree of engineering certainty" and these are your opinions, not mine. I'm just trying to get a sense of how certain you are. Are they all -- so it's your testimony 2 through 4 are all the same level of certainty?
A. No, it's my testimony that I can't give you a number for any of that. And I really don't know how else to -- you can ask it more times if you'd like. It's already been asked

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I think a number of times, and the answer is I don't have a number for you. I'm not going to give you a percentage number because I don't believe that can be done.
Q. Okay. I'm going to start with Conclusion No. 1. You say it appears unlikely that Instant Brands performed a proper risk assessment. How unlikely?
A. I can't give you a number on that, but I can tell you that they haven't -- I haven't seen anything produced by Instant Pot that demonstrates that they did perform such a risk assessment.
Q. Have you seen anything that they didn't?
A. I, I guess I haven't seen a document that Instant Pot says we chose not to do it. I haven't seen that document if that's what you're asking.
Q. Okay. So you don't have any evidence either way?
A. Well, what I have is no evidence that it actually occurred and I would assume that a competent engineering department would have kept such a document and that it would have

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been produced when it was asked for. That would be my assumption. Now, I may be wrong. Maybe they threw it away. Maybe they did the work and said, well, we don't really care, let's just burn it, or maybe they chose not to share it. I honestly don't know because I'm not in their heads. I can't answer that. What I can tell you is that I haven't seen any evidence that they did perform them. That's all.
Q. All right. Is this a scientific opinion or conclusion or is this just you evaluating the evidence?
A. That one is an evaluation of the evidence. Well, I guess it's also scientific in the sense that it's my opinion that it should have been done, but it's essentially an evaluation of the evidence.
Q. But your opinion that it should have been done is not a scientific conclusion. It doesn't apply the laws of physics to that, does it?
A. No, but it does apply good engineering practice.

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Q. All right. I mean, the performance of a risk assessment is a fact, right? Either they did or they didn't?
A. I guess so, yeah.
Q. Right. And all you're saying in this first conclusion is you haven't seen any, you haven't seen any evidence that they did or they didn't. That's your opinion or that's your statement; right?
A. Yeah. And if you have evidence that you'd like to show me that they did do it, I'd be happy to review it, but it's my understanding that that was asked for and it was not provided which to me says that there is no evidence that it's been done.
Q. Who manufactured the unit?
A. You know, I'd have to look at my notes. I believe it's a manufacturer in Asia, but I don't have that memorized.
Q. A manufacturer other than Instant Brands, the defendant?
A. Yeah. I believe that Instant Brands hired somebody to manufacture it. That's my understanding.

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Q. All right. Do you know if that manufacturer did a risk assessment during the design process?
A. That I don't know. If they did I would have hoped that it would have been provided, but I don't know the answer to that since I'm not there.
Q. Who would have provided it?
A. Well, presumably the manufacturer would have provided it to Instant Brands because Instant Brands would want to make sure that it was done and then Instant Brands would have it in their file.
Q. Again, this is your personal assumption?
A. That's my opinion on this case and how it should have been done had it been done competently.
Q. Is this FMEA assessment required by any standard, any written standard?
A. I don't know that there is a written standard or regulation requiring it. It's just good engineering practice.
Q. Is a product necessarily unsafe if the assessment is not completed?

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A. I guess not necessarily, but without doing it the designer, distributor, manufacturer or whoever it is that's bringing the product forward won't know. They won't know if it's safe or not without doing it, and that's why it ought to get done.
Q. Is the product necessarily safe if this assessment is done?
A. If it's done properly then the product will be either safe or at least the hazards will be known, but -- but I wouldn't guarantee that it's safe because, I mean, you can do a risk assessment and then still choose to sell a hazardous product if you want. I imagine that's not likely.
Q. Does a risk assessment require a quantification of the risk?
A. To a certain degree, yes, meaning that most risk assessments do assign rough approximate values like, you know, 0 to 9 or 1 to 10 depending on how you do it to certain levels of risk, like what is the level of risk, what is the likelihood of occurrence, what is the likelihood of determination if it

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does exist.
So there can be numbers applied, but they're not like, you know, they're rough numbers, but you can use quantities if you like as part of doing the risk assessment. That is possible.
Q. Have you done a risk assessment here?
A. I have not been hired to do a risk assessment for this product, no.
Q. So you haven't done one?
A. Not for this product, correct.
Q. Is it your opinion that because the product is defective, the assessment likely wasn't done? Is that the nature of your opinion?
A. Yes. Yeah, that essentially, that is essentially what it boils down to.
Q. And you'd agree in every report that you've ever written that do say the product is defective you've included this exact language?
A. I've included similar language, risk assessment language to many of my reports. I don't know if it's in every report, but many

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of them do include it because in my opinion that's a very important part of engineering design.
Q. Would you agree that this risk assessment analysis or this paragraph in Paragraph 1 really focuses on the conduct of the parties involved?
A. I would say that it focuses on the engineering design, that part of their conduct, if you want to call it conduct. I would say it's the engineering design.
Q. All right. But it's people doing it; right?
A. It's always people doing it. I'm not aware of any engineering designs that happen out of thin air.
Q. All right. But you're, you're saying that the conduct of the people who were responsible for designing the product was somehow lacking; right? That's what you're saying?
A. I'm saying that the engineering design is lacking.
Q. Okay. It's a process oriented opinion

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then; correct?
A. Yes. This one is, is part of the process of the engineering design.
Q. Okay. And would you agree that Paragraphs 2, 3, and 4 focus on the product itself, right, it's a product focused analysis?
A. Product, well, I mean, 4 talks about the totality of the evidence which is not just a product. 3 is more product and 2 is more product. So I'd say 2 and 3 are product and 4 is more sort of a totality of the evidence which does include testimony.
Q. I don't remember the number, but it's almost 15 or 20 pressure cookers that you've examined over the years, they generally have the same basic operating concept, do you agree with that?
A. You mean of all of the pressure cookers?
Q. Yeah.
A. Yeah, I'd say about a hundred give or take, but yeah. So in terms of the electronic pressure cookers, their designs are fairly similar across the board. I mean,

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they've got differences, but at the core I think their designs are fairly, fairly similar.
Q. Okay. Do you own a pressure cooker at home?
A. My wife does have a pressure cooker, although I don't know that she ever uses it, but I think she bought one, yeah, many years ago.
Q. What brand?
A. I think it's an Instant Pot. I guess I'm not sure, but I think it is. I think that's what she got.
Q. Have you told her not to use it?
A. Well, I've told her about all these cases and I've warned her. I haven't seen her use it actually, I don't know, maybe in years. I don't know if she still uses it or not.
Q. She has used it though?
A. I'm sure she's used it at least once, yeah, because I think I've seen her use it at least once.
Q. And she was able to use it safely?

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A. Yeah.
Q. You'd agree that pressure cookers are used safely every day by tens of thousands of people; right?
A. I don't know how many people use them every single day, but I'm sure they frequently do get used without injury.
Q. And that means they're being used safely; right?
A. Well, I mean, I would -- I don't know if you can make that assumption. I mean, somebody could use it unsafely and get lucky and not get hurt, so I wouldn't say that I guarantee they were being used safely.
Q. Okay. But you can -- you'd agree that a large number of people use pressure cookers every day in the United States and maybe Canada and they don't get injured; is that fair?
A. Yeah. I mean, I don't, like I said, I don't know the number, but I'm sure that there are frequent uses where people are not injured, yes.
Q. Okay. Do you know how many pressure

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cookers are out there in the world?
A. That's a good question. No, I've never really tried to put that number together. I mean, I guess I don't have a specific number.
Q. Do you know how many Instant Pots are out there?
A. You know, I'm not sure. I don't -- I don't recall seeing production numbers for Instant Pot, although I may have seen it. I just don't recall seeing it. I assume it's in the, in the many, many thousands. I don't know if it's in the millions or not.
Q. In the course of your evaluation of pressure cookers, have you ever looked up reviews of pressure cookers online?
A. I have -- I have done that for other cases. I don't know that I did that for this case. I don't think I did.
Q. All right. Do you have any reason to dispute that there are many positive reviews out there for pressure cookers?
A. No.
Q. Would you agree that many find it a useful and functional device?

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A. I'm sure there are people who would find it useful and functional.
Q. At one point in time your wife found it useful?
A. I don't know how useful she found it, but I know she used it.
Q. Okay. You'd agree there is a whole cottage industry of pressure cooker cookbooks out there touting the advantages of pressure cooking?
A. Um, you know I've seen those like, you know, at the book store and stuff. I guess I don't really know much about how big that industry is.
Q. All right. But you agree it exists; right?
A. Well, I know it must exist because I've seen those books, yeah.
Q. All right. You haven't seen cookbooks about how to make toast, have you?
A. You know, that's funny. I might have actually.
Q. Really?
A. Yeah. You know, I'm trying to think

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where that was. It might have been like in the man's guide of cooking or some weird -- I remember it being funny, you know, like they had these really stupid sort of instructions like boiling eggs and stuff. I don't remember all the details. I don't think it was a serious cookbook to answer your question.
Q. I'm starting to sense that as you're going through.
A. Yeah.
Q. Okay. Let's see if we can get some, if you can help me understand the product here. So I am going to hopefully share a couple of photos.
Do you see that, sir?
A. I do.
Q. And for the record it is, I'm just going to read the last three numbers. It's a photo from your file, the last three numbers 332.
A. Okay.
Q. Do you see the document?
A. I do see that up on the corner, yes.
Q. Does that help?

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A. Yeah, 332. Okay.
Q. Okay. And this is a photo that Mr. King took?
A. I believe he was the one who took that, yeah.
Q. All right. This is a float valve; correct?
A. It looks like the underside of the float valve, yes.
Q. Okay. And this is in the bottom of the -- this is in the lid, right, and the lid is turned upside down; correct?
A. This is the underside of the lid, right, the part of the lid that would face inside the cooker.
Q. Okay. And I'm going to show you the float valve moves up and down; right?
A. That's true.
Q. Okay. This photo shows it in the open position; right?
A. That is the down position or the open position, correct.
Q. Okay. Unpressurized?
A. This would be an unpressurized position

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or the pressure is less than 1/2 to 1 psi.
Q. All right. This is the closed position, the pressurized position in Photo 331; right?
A. Yes, I would agree with that.
Q. Okay. And I am going to reorient us. I'm going to flip your photo over.
Do you see that?
A. Yes.
Q. Okay. And in the lower right I called it "Float Valve A." Do you see that?
A. I do see those words, yes.
Q. Okay. This is the same picture just turned around and I put an arrow that says "Up," right?
A. That does appear to be the case, yes.
Q. But you see the words "Up" with an arrow, right?
A. Oh, yes. No, I do see the word, yes.
Q. Okay. So all I did was this is on the underneath side of the lid, this would -- if you could climb into the pot with a camera and take a picture, this is what you'd see if the pot wasn't pressurized; right?
A. Yes, or if the pressure was below 1/2 to

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1 psi.
Q. All right. That answered my question. So the float valve rises at 1/2 pounds per pound square inch?
A. Yeah. It varies on the cooker, but in my experience they're usually between 1/2 and 1 psi.
Q. All right. And it stays elevated during the cook cycle; right?
A. Yes.
Q. And drops at 1/2, roughly 1/2 psi at the end of the cook cycle --
A. Yes.
Q. -- when the pressure is reduced; right?
A. Yes, the ballpark, I think that's fair.
Q. All right. And within seconds of the float valve falling the pressure will essentially equalize between the room pressure and inside the pot?
A. Yeah, it may take a few seconds. I think that's fair. I think seconds is the correct assessment.
Q. Okay. You'd agree that it would be safe to open the pot when the pressure relief

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valve falls?
A. If the pressure is reduced to that 1/2 psi give or take I'd say, yes, that's true.
Q. Okay. Well, have you ever had an occasion where the float valve dropped at a higher pressure?
A. Dropped from the closed to open, no.
Q. Okay. So would it be safe to open -- if you're looking at the pressure relief valve from the outside, would it be safe to open up when the pressure relief valve falls?
A. Assuming that it's not clogged, then I would say yes.
Q. All right. Would it be safe to open the pot at 3/4 pounds per square inch pressure?
A. Yeah, I'd say 3/4 psi is probably still safe. I'd say so.
Q. How about 1 psi, is that still safe?
A. I'd say about you're starting to get into that depends range, but I would say most likely it would be safe.
Q. All right. Just context, ambient pressure at sea level which I think we're both, you and I are roughly at is what, 14,

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15 pounds per square inch?
A. Yeah. I think it's like 14.3, but remember the 1 psi we're talking about here is relative to ambient, so that's 1 psi over ambiance.
Q. That was my next question, sir.
A. Yeah.
Q. So we're talking about when we say 1 psi, it's 1 psi above what the normal pressure is around us?
A. Correct, yeah. If it were 1 psi absolute this thing might buckle.
Q. Okay. That would be -- yeah. And this pressure cooker operates at a relative psi of what, 12 pounds per square inch?
A. I think it depends, but that's pretty typical.
Q. All right. And the vessel itself is able to withstand that pressure; right?
A. Oh, I'm sure the vessel could withstand more than that.
Q. All right. Again, just putting this in context, car tires are what, 32, 36 psi above ambient?

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A. Yeah, it depends. I mean, you know, for some applications people run their tires much lower, like if you're doing off-roading it might be 5 to 15 or 20. Some people run it much higher. I think you can run them 50, 60 even, but I think most passenger vehicles are intended to be run in the 30's.
Q. Okay. Would you agree with this statement: If a user closes the lid fully and does nothing more than wait for the pressure relief valve to drop before opening the lid, there is no safety issue?
A. If we assume that the release valve is not clogged in that position, then I would say that's true.
Q. Would you agree that, I think you've told us before you've criticized pressure cookers before for a recessed float valve; right?
A. Yeah. So there are, there are some pressure cooker designs where the float valve is in a deep well and there is no way to tell by looking at it. There is no easy way to tell whether it's up or down.

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Q. All right. That's not this pressure cooker; right?
A. That's true.
Q. Matter of fact, you've in other cases touted the design of the Instant Brand's float valve as the way it should be designed; correct?
A. It's certainly one of the better designs meaning that, and I think it's not just Instant, but I think the new Maxi-Matic is even better because it uses a red pin, but they're both pretty good contrasts. I would say it's among the better designs in terms of visibility.
Q. Certainly not defective; correct?
A. That's still true, yeah.
Q. And you would agree -- well, let me -- let's display a couple of photos so we know what we're talking about.
Okay. This is Photo 383, one of your photos or one of Mr. King's photos I should say. This is the top of the Instant Pot pressure cooker; right?
A. Yes.

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Q. And it's missing a cover on the left, this kind of silver thing sticking up on the left?
A. Yeah.
Q. There should be a cover over that; right?
A. Well, I would call it, it's part of the pressure control valve. It's basically a weight with a valve seat on it.
Q. Okay. It's missing in the photo is my point?
A. That's true.
Q. Okay. And over here, this silver button, that's the top of the relief valve; correct?
A. That's the top of the float valve.
Q. Float valve. Sorry, my mistake. It's the top of the float valve. And this is in the up pressurized position in this photograph; correct?
A. No, I think this one -- yeah, I think that is in the up position, yes. Yes.
Q. All right. Well, I can show you the next photo which is 282. That's the down

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position.
A. Yes, I do see that.
Q. Actually, let me make sure I got my numbers right. 283 is up and 282 is down. 283 up, 283 down; right?
A. 28 -- 382 down.
Q. Yeah, 382, sorry. My bad.
A. Yeah, yeah.
Q. Okay. In the past you've said that the Instant Pot has a high contrast silver button on a black contrasting background, right, that that's an advantage?
A. Yes, I agree.
Q. Okay. And would you agree that Ms. Durham testified she knew she should wait for the float, wait for the float valve, I think she called it silver button, to drop before opening?
A. I do recall something to that effect in her deposition.
Q. Matter of fact, she testified she could see it, that silver button on the black lid. Do you recall that testimony?
A. Yeah. I think she was asked about the

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button a number of times and I think that she did say that she believed that it was -- that she could see it. Yeah, I do believe she said she could see it.
Q. All right. Did she ever say she couldn't see it?
A. I don't think so.
Q. Did she ever say she didn't understand what the purpose of it was?
A. I don't think so. I don't recall her saying that.
Q. Okay. You'd agree that this design and configuration of the silver float valve is a positive design feature for the Instant Brand's product?
A. The high contrast and visibility is a positive feature, correct.
Q. Okay. And you agree that this design and configuration increases the safety of the product over other designs?
A. It is better than other designs. There are designs that are worse.
Q. Turning back to the photograph ending 383, again when the float valve is up it

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doesn't extend above the black plastic surrounding it; correct?
A. No, I believe in the subject it's fairly flush.
Q. All right. And would you agree that that's a positive design feature as well?
A. Um, I would say it's all part of the same piece meaning it does allow for easier visibility with the high contrast and I think its position is a plus.
Q. And would you also agree that the fact that it doesn't extend too high eliminates the chance that it might be accidentally depressed and unlocked?
A. It does mitigate that risk, yes.
Q. And the, that float valve we're talking about, that silver button that goes up and down, that intersects with a locking mechanism; correct?
A. Yes.
Q. Or interlocked maybe would be a better description?
A. That's fair.
Q. Okay. And when the float valve is up,

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the lock is engaged; right?
A. If the lid is in the proper position and the slider mechanism is positioned to allow the float valve to enter an opening in the slider then, then it would become locked, yes.
Q. Okay. In normal operating conditions when the float valve is up the unit is locked; correct?
A. Yes, I think that's fair.
Q. And when the float valve drops it unlocks the unit for opening, correct, under normal operating conditions?
A. Yes. If the float valve is in the down position it will not provide a lock.
Q. And that's a design feature; correct?
A. Yes.
Q. I mean, the lock is a positive design feature. It makes the unit -- it makes the product safer; correct?
A. Yes, correct.
Q. Okay. The lid of this pot -- actually, I'm going to show you this. Sorry, my share thing is in the way. This is a photograph

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you provided us of one of the exemplar units. I think it's --
A. Okay.
Q. I think it's -- I don't know if it ends with .1-.2 pressure cooker lid with base.jpeg.
A. Okay. I see that, yeah.
MR. CALLAHAN: And I think we're up to Exhibit No. 9.
(Exhibit Rondinone-9 was marked for identification.)
BY MR. CALLAHAN:
Q. This is one of the exemplars that you examined or were in Berkeley Engineering's possession I should say?
A. I think -- I think that's fair.
Q. Okay. And just an overall visual of it, we have the base unit and the lid on top. Do you see the lid?
A. Yes.
Q. Okay. There is a handle on it?
A. Yes.
Q. How much force does it take to close the lid, do you know?

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A. You know, I don't know that I've measured it with these, but typically when there is no pressure and the lock is not engaged, it's probably just a few pounds of force, fairly low.
Q. Applied where?
A. Well, it depends on where you -- I mean, if you grab it in the middle it would be applied as a twist in the middle or you could apply it to the ends of the handle as well.
Q. Well, that's my question. You say apply a few pounds of force. Where are you applying the force to close the lid?
A. Oh, so --
Q. Or if you'd like, how much torque is required to overcome the friction?
A. Yeah. So I would say that it's not much. It's in the handful of foot-pounds at most in terms of torque. It depends. It depends on the weight of the cooker interface and like you said on the friction, but it's a fairly small torque. I don't have a number for this, for this particular one. I don't think we measured it.

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Q. Okay. It's possible to measure though; right?
A. Oh, it is possible, yes.
Q. You'd agree however much force it takes to close the lid, it's fairly easy to close?
A. Yes, that's fair.
Q. And the only thing resisting when closing it is the friction between the lid and the base unit; correct?
A. Yes.
Q. That's so that the user can close this with two fingers; right?
A. Yeah, I bet they could.
Q. And when closing the unit, the friction between the feet and the base and the counter it's sitting on is enough to overcome the twisting action to close the lid; right?
A. Yeah, I think that's fair.
Q. You don't need -- you don't have to hold the base with one hand and close the lid with the other?
A. No, I don't think that's required.
Q. It's not a pickle jar; right?
A. That's true.

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Q. Okay. The photo that's in front of you, the exemplar photo, can you tell me if this lid is fully closed?
A. That lid looks like it's either fully closed or close to closed because the ears on the lid are fairly, they're fairly well aligned with the handles on the base. I can't tell from this orientation if it's centered or not.
Q. All right. So one way to tell if the lid is closed is if the fins on the lid line up with the handles?
A. I think that's fair.
Q. All right. Is another way this particular mark here on the front of the lid?
A. Yes. I believe that mark will line up with, although I don't see the mark in the photograph, but I believe that there is an alignment mark as well.
Q. Is the alignment mark in the center of the control panel?
A. I can't see it in the photo, but that wouldn't surprise me if that were the case.
Q. Okay.

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A. I believe that -- I just don't see it in the photo.
Q. Is the lid difficult to close fully?
A. I would say no.
Q. Do you think it's something that a manufacturer could reasonably expect a consumer to accomplish?
A. I mean, I think that, I think that a reasonable consumer certainly could close it. There is no guarantee that they will close it all the way, but I think that they certainly could.
Q. Is that a reasonable expectation that the consumer would close the lid properly?
A. Well, I think the expectation is that the consumer may believe that they closed the lid all the way, but in this position here which appears to be mostly closed, if not fully closed, it's mostly closed, may still be an expectation that the user may do that. I would not rule -- I would say that a manufacturer, designer, distributor would have to expect that users may not fully close it, but they may nearly fully close it and

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that that would be an anticipated use of the product.
Q. How many indicators are there for the user to tell if it's fully closed?
A. I would say visually it would be the alignment mark and the ears.
Q. The what?
A. The alignment mark and the ears.
Q. Anything else?
A. I mean, I guess if they shone a light into the little float valve recess they might be able to see the slider. I don't know that anybody would do that though. I mean, I would, but I don't know that a normal user would.
Q. There is a stop, is there not?
A. There is a stop. You could hold it against the stop, but if you were to close it and bounce off the stop then you may end up back into a position like this.
Q. How often does that occur?
A. I have not done statistics on that.
Q. So you can't tell me if it occurred, if it's ever occurred, can you?

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A. Well, I mean statistically you know it must have occurred, but the question is how often. I couldn't tell you.
Q. Why can you say it must have occurred?
A. Because the simple physics dictates that there is going -- that there can be an elastic response if you -- if you close something against the bump with energy there will be an elastic response. The question is how are you holding it when you get the elastic response, how much force is in the elastic response and, you know, does it move back a millimeter or multiple millimeters or close to zero. I haven't done the statistics.
Q. So you can't offer a scientifically valid opinion about how far it would bounce or if it would bounce back?
A. No, that's not true. The physics dictates that it could easily bounce back. The question is how far and how often, I can't tell you.
Q. And you can't -- you've never tested that to tell us that?

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A. No, I don't think I have.
Q. So do you think the full stop is a safety feature or a safety detriment?
A. No, I think that the stop is, would be a good part of the design because it does provide tactile feedback.
Q. You can turn it until it stops. Let it go and it's closed; right? That's a positive?
A. Yeah. If you turn it until you're stopped -- until it stops and you're still holding it and you hold it against the stop, then yes, it would be fully closed.
Q. How would you close it? Isn't that what you would do?
A. I suppose. I mean, I don't use these, so I'm not really -- I don't know what I -- I don't know what I'd actually do in cooking, but I know as an engineer that's how I would do it.
Q. Would you agree the marking on the front of the base and the lid is a positive design feature helping the user know when it's fully closed?

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A. Yeah, I would say that's a positive feature.
Q. And the fins on the handles lining up, you would also say that's a positive feature to help the user understand when it's fully closed; right?
A. Yeah, I'd agree with that.
Q. And even if, even if they spun it closed and it bounced back as you suggested could occur, I mean, the fins would not be lined up anymore; right?
A. They may not be perfectly centered, but they may still be lined up. Like it looks to me like the fins are lined up but not perfectly centered in the photograph.
Q. Did Durham testify that she knew how to close the lid?
A. You know, I don't recall her testimony to that effect, but I don't think she ever testified that she didn't know how. I don't recall her specific testimony.
Q. Do you remember her testimony? I asked her, do you remember on the incident that you turned the lid all the way so it stopped, and

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her testimony was yes? Do you remember that?
A. I don't, but that sounds reasonable that she would have said that. I mean, that sounds about like the recollection, what it ought to be.
Q. And she also confirmed that the flaps and the handles met after she closed it on the day of the incident. Do you remember that?
A. I don't remember that, but if she said it then I would agree that that's what she said.
Q. Do you have any reason to believe she didn't understand how to determine if the lid was closed properly?
A. No, I guess I don't have an opinion on that. So, yeah, I guess I don't have an opinion on that.
Q. And do you remember any testimony about that?
A. No, but if what you read me was from her deposition, then I'd say that that's what she said.
Q. The examination by Berkeley Engineering

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didn't reveal any difficulty in closing the lid, did it?
A. It did not reveal any difficulty in closing.
Q. And during examination the unit could be fully closed to the stop with a simple twist of the finger; right?
A. I believe that it could be easily closed.
Q. And it was, it was completely closed by Mr. King during his inspection; right?
A. I think that is true.
Q. And when it is fully closed it operates appropriately; right?
A. I believe in the, yeah, in the three or so tests that were done with it I believe that it did operate as intended when it was tested.
Q. So nothing in your testing of the unit contradicts Ms. Durham's recollection that she understood how to close it and that she did in fact close and check it on the date of the incident?
A. Well, I don't know how any of our

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testing could support or not support what she said in her deposition. I think if that's what she said then that's what she said, right. I wouldn't argue with what she said.
Q. But your testing doesn't contradict what she said, does it?
A. Well, the testing can't contradict or support what she said, right. I mean, nobody was there videotaping what she did. All the testing says is that it can be closed and we were able to close it and I think so was your expert. I think that's all the testing says. It can't say what she said about it.
Q. But you could have done testing that confirmed that it couldn't be closed; right? That might have negated the test?
A. Oh, I see. Okay. So you're saying that the testing demonstrates that what she said could be true? Is that what you're saying?
Q. Sure.
A. Okay. Yeah, I think the testing supports that what she said could be true.
Q. All right. And nothing in your testing supports the opposite conclusion that what

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she said couldn't be true; right?
A. None of the testing proved that what she said couldn't be true, but it doesn't prove that what she said was true. It just said that it could be true.
Q. I think you mentioned this before. The lid turns counterclockwise to close; right?
A. No, I believe this lid turns clockwise to close.
Q. Oh, yeah, you're right. Sorry, I'm backwards.
A. I think she was backwards in her testimony as well which frankly doesn't surprise me.
Q. But the witness -- let me ask it this way. The way this lid closed is what you would expect, what the user would expect, and is a positive design feature. Is that -- are those all fair statements?
A. That's fair.
Q. Okay. I probably should be doing the righty-tighty lefty-loosey thing to try to figure that out; right?
A. Exactly.

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Q. In other pressure cooker matters not involving Instant Pot you've criticized the design of the manufacturer, design of the product because in your opinion the user could partially close the lid without engaging the locking mechanism; correct?
A. Yes.
Q. And that could create a risk that the pot could be pressurized but not locked; right?
A. Yes.
Q. And that's not your opinion -- that didn't happen in this case in your opinion?
A. That's correct.
Q. We just spoke about some positive indicators for the user to determine when the lid was fully closed, but you'd agree that Instant Pot has two other positive safety features that protect the user if they do in fact fail to close the lid fully?
A. Is there a question there? I don't know what the question is.
Q. All right. If this lid is in place and it's not fully closed -- well, let me put it

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this way. Let me start over. There is, there is a magnetic switch on this product; correct?
A. Yes. Yes, it does use a magnetic switch assembly to determine the position of the lid.
Q. Okay. And if the lid is not in the proper position, fully closed, the unit will not heat; correct?
A. No, that's not quite true. So on this particular model the lid can be closed within about, I think it's about an inch of full closure and the magnetic sensor will read it as fully closed even though it's not fully closed.
Q. Is that unique to the Durham product or is that a design feature of all Duo 60 Pluses?
A. I don't think it's unique to the Durham product, because I have seen other Instant Pots that will acknowledge closure with the magnet before it's fully closed, but I believe I've also seen Instant products which require that it be fully closed to

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acknowledge it or basically fully closed, much closer than the full inch I think that this one showed.
So I don't think it's unique to this one pressure cooker, but I know that it's, there are other instant pressure cookers that definitely read fully closed until they're much more fully closed. Does that make sense? I don't know if I'm being clear on that.
Q. All right. Let's explore the switch. If the base doesn't sense that the lid is in the correct position, whatever that means, it will not heat; right?
A. That's true.
Q. Okay.
A. When the base, when the base detects the lid in a position that it believes is not properly closed, then it won't heat.
Q. In the past you've criticized manufacturers for not having a magnetic switch sensor; correct?
A. That's true.
Q. In those other cases you offered an

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Instant Pot as an example of a product using the magnetic switch as a positive design feature?
A. Yeah, the Instant Pot, I think numerous Tristars and Maxi-Matics, and there are others, too, that also use it, but yeah, the Instant Pot is among the designs that does use a magnetic switch.
Q. And you'd agree the magnetic switch is a positive safety feature?
A. Yes, I agree.
Q. And the way the electronics are in the Instant Pot product, if the user wants to remove the lid and use it for a non-pressurized cooking procedure, it still heats; right?
A. Yes, and that's common with pressure cookers with magnetic switches. They're -- they are wise enough to cook with no lid.
Q. All right. So it only senses if the lid is on, but not in the right position?
A. That's the intention of the sensor, yes.
Q. All right. This Durham pot also if the slider hasn't fully passed over the top, the

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tab, sorry, the float valve will not rise; right?
A. If the slider is slid regularly outwards such that the hole in the slider or the slot in this case I think doesn't line up properly, then yeah, it will prevent the float valve from rising. The body of the slider will strike the top of the float valve and will prevent it from rising properly.
Q. And that's a positive design feature; correct?
A. Yes.
Q. And the intent of that design feature it is preventing pressurization without the lock fully engaged; right?
A. Yes.
Q. You state that in your report; right?
A. Yes.
Q. And your testing and examination of the product revealed that the magnetic switch functioned; correct?
A. The magnetic switch did function, but it showed -- it presented to the base unit that the lid was fully closed about an inch before

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it was fully closed.
Q. And you've also confirmed that the interlock, if the pins extended the float valve will not rise; right?
A. If the -- right. If the slider has moved radially outward to interfere with the float valve, it will prevent the rising of the float valve.
Q. Okay. And if the float valve can't rise the unit cannot pressurize; right?
A. Barring a clog. Yeah, barring a clog that is true.
Q. All right.
MR. KRESS: Dennis, I don't want to interrupt your train of thought. We've been going about an hour and a half. Five minutes?
MR. CALLAHAN: Sure.
MR. KRESS: All righty. Off the record, please.
THE VIDEOGRAPHER: 3:20.
THE WITNESS: Five minutes.
(Recess; 3:20 p.m.)
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(Resumed; 3:31 p.m.)
THE VIDEOGRAPHER: We're back on the record, 3:31.
BY MR. CALLAHAN:
Q. I'm going to turn our attention to pressure control of the unit. First of all, the Instant Pot product has electronic pressure limit; correct?
A. Yeah, I believe it does.
Q. So when it reaches operating pressure, the heating stops and the pressure is stabilized or decreases until it reaches a threshold and heats up again; right?
A. Yeah. There is a little bit of a wiggle, but it's definitely controlled.
Q. Okay. That's a positive feature?
A. Yeah. Yeah, in fact I think that's probably the only way you can do it with an electronic.
Q. And that is a -- your testing demonstrated that pressure, electronic pressure control still functions today; correct?
A. I believe that's true, yes. Yeah.

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Q. Okay. We talked about that weighted relief valve cap earlier. That also allows excess pressure to bleed off, does it not?
A. Yes, it does.
Q. That also allows the user to quickly and safely release the pressure at the end of a cook cycle, cook cycle if they choose to; correct?
A. Yes. Yes, it does.
Q. Again, both positive safety features?
A. Yes. I mean, there are better ways to implement the weight valve. So, for example, this weight valve requires the user to place their hand at the same exit point which I think is not the best way to do it. There are better designs where they essentially use a remote lever so that you don't have to place your hand on the steam exhaust to change it, but otherwise I'd say it's definitely a useful feature.
Q. Okay. What happened to the relief valve in this particular product, do you know?
A. I do not know.
Q. You can't operate the product without

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it; correct?
A. Well, not under pressure.
Q. Okay. Do you know if she was using the pressure relief valve or the pressure relief cap at the time of the incident?
A. Yes, I believe she was.
Q. And where did it go?
A. I still don't know that. I don't know the answer to that.
Q. All right. The -- I'm going to share my screen. This is the picture of Float Valve A. Basically this is the underneath of the lid, the float valve in the down position; correct?
A. Yes.
Q. There is the silver shaft, right, and there is two holes in the shaft. Why?
A. I believe that assists in the venting of the unit, meaning the release of pressurized vapor.
Q. How does it do that?
A. Well, the two holes as well as the orifice or annular orifice around the cylinder will allow pressurized vapor to

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exhaust through the opening in the lid out the top of the lid where you had the button, the little silver button side of the lid, so it gives you a path. It's one of the available paths for the exhaust of pressurized vapor.
Q. All right. So these two holes in the float valve, a positive design feature?
A. Um, yeah. I'd say it's better there than not there. I'd say that's true.
Q. All right. And this comes into play when the float valve is -- when the lid is not fully locked and the float valve is down; right?
A. This applies any time the float valve is down. So, for example, if the lid is fully locked and the float valve is down, vapor will still escape even, you know, while it's pressurizing, for example.
Q. Okay. Until the pressure reaches 1/2 to 3/4 psi and the float valve locks up?
A. Yeah, typically 1/2, a little bit more, yeah, then the float valve will rise.
Q. Okay. But you need a path for the steam

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to escape, for the pressure to escape when there is something -- when you don't want the lid to pressurize or the unit to pressurize; right?
A. Um, yes, but --
Q. When this -- when this comes into play is a situation where the lid is not fully closed, the float flap is locked down, and that hole allows steam to escape to prevent pressurization if it's not locked?
A. If it's not locked and the slider is preventing the rising of the float valve, yes, steam will escape. You can still get pressure buildup, but it will be venting while that's happening.
Q. If the valve is down -- if the valve is -- strike that. If the pressure -- I'm having a hard time. I need a longer break.
If the float valve is locked down and pressure is escaping through the orifice and the bypass hole, how much pressure can build within the unit?
A. Oh, you know, that's a good question. On this particular unit I guess I'm not sure,

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but I don't believe it can achieve operating pressure. So I believe it's less than that, but I haven't -- I don't think I've measured it on this particular model.
Q. Is it less than a pound per square inch?
A. That I don't know. That probably depends on the thermal, the thermal mass of the contents. I don't -- like I said, I would say that it's almost certainly less than operating, but I couldn't give a number to it since I didn't test it.
Q. Would you agree that the bypass hole in the float valve is a positive design feature?
A. Yeah, I think it's better that it's there. I think that's true.
Q. Okay. So when the lid -- when the -- when a user is using the pot and the lid is fully closed and the float valve is up because it's under pressure, the lid is locked; correct?
A. That is correct.
Q. And the slider is blocked by the pin from allowing the locking tab to go over the -- or the locking pin to slide over the

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tab; right? That's what happens?
A. Essentially. I mean, basically what happens is the, the position of the float valve engages the slider so that when someone does attempt to open it a resistive force is applied by the pin right on the flange of the base, and I believe for this design, for this pressure cooker that force would be sufficient to prevent a user from opening it.
Q. This design being what, this Instant Pot product?
A. This Instant Pot product, correct.
Q. Okay. You haven't made any opinions or offered any opinions in your report that this lock is insufficient?
A. That's true.
Q. Okay. And is that because it's your belief it is sufficient?
A. I believe this lock is sufficient to prevent a user from opening it when the lock is engaged.
Q. Okay. In addition to the locking pin, friction between the lid and the base contributes to the resistance; correct?

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A. That's true.
Q. And it can be substantial friction; correct?
A. That's also true.
Q. I mean, even without a lock at certain pressures the friction is so great that a user cannot open the pot even without the lock?
A. I agree with that.
Q. Have you ever measured the friction of a pot while under pressure?
A. I don't think we've measured the friction. We have taken pots and opened them under pressure and it's our experience that above about 4 psi a normal human force is not capable of opening the lid even if the interlock is not functioning. So usually pressures that are above 4, you know, or a little higher than that generates sufficient friction between the lid and the base that a normal person couldn't open it, at least not without a tool, not by hand.
Q. Okay. I mean, it doesn't matter what the pressure is, if you use the right tool

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you can open it; right?
A. Yeah. I mean, if you had a six-foot cheater bar you could probably open this one at full pressure. I don't know that I'd recommend doing that, but I guess it is possible. I was referring to somebody using it like grabbing the handle, for example, just by hand.
Q. Okay. And the locking mechanism comes into play -- well, we talked about earlier in your deposition if the float valve is up, it's an indicator the unit is under pressure; right?
A. Yeah, that is true.
Q. And if a user sees and recognizes the float valve, they know it's under pressure, they know it shouldn't open, they should wait for the valve to drop; right?
A. If they recognize that as the indicator, then yes. Like I would recognize that, for example, but I can't speak for everybody.
Q. All right. Well, Ms. Durham recognized it too in her testimony; right?
A. I think she said something to that

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effect. I don't recall her specific words.
Q. Okay. So but just the locking mechanism we're talking about comes into play if someone tries to open it while it's under pressure, but they don't realize it's under pressure?
A. It prevents somebody from opening it while the float valve is up. Whether it's under pressure or not it will prevent someone from opening it if the float valve is in the up position.
Q. Okay. Under normal conditions the float valve is up while it's under pressure; right?
A. Under normal operating conditions as long as the pressure is above that 1/2 give or take, then yes.
Q. Okay. And if you don't think the locking mechanism in this Instant Pot is defective, you'd agree it's a positive design feature; correct?
A. I would.
Q. It sufficiently prevents accidental openings?
A. If the float valve is up it will prevent

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accidental opening. I agree with that.
Q. You talked a little bit about, well, using a tool to open it, but does the lock also have like a tactile warning reminder role, too?
A. I don't know about that. I think a properly functioning interlock when it's in the locked position will prevent someone from opening it, period. Like it's not just, hey, be aware, it's you can't do it. Go ahead, put your hands on it, give it a shot, you can't open it, and I think that's how this one behaved.
Q. But I mean it closes easily; right?
A. Yes.
Q. I think you said a pound of force at the handle?
A. Yeah, give or take or a few pounds, but yes, I would agree that it's, it would be easy to close.
Q. Okay. And if force has ten times the closing force to open, it does indicate something to the user; right? You'd agree with that?

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A. It would indicate something, but it would be up to the user to interpret what force is good and what force is too much and what force is not too much, right, and I don't believe Instant Pot provides any direction to the user on what that value would be and I think that would be interpreted differently by different users.
Q. Okay. You'd agree -- well, there is a warning, do not force open; correct?
A. That's typical of the words that are used. I don't -- I haven't memorized this manual, but that's typical.
Q. And you'd agree not forcing it open would be something -- if you're getting a tool out, you're forcing it open; right?
A. That I think is fair.
Q. Okay. How about calling over someone to hold the pot still while you grab onto it and twist it with both hands, is that forcing it open?
A. I think some users would interpret that as forcing it open, but I don't think that everybody would interpret that as forcing it

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open at least based on my experience.
Q. How about you?
A. I would probably interpret that as forcing it open if I asked a second person to help.
Q. Okay. And if your wife asked you to come hold it while she tries to force, twist the lid, you wouldn't do that, would you?
A. I would not.
Q. Okay. Do you agree that Ms. Durham testified she knew not to force open the lid?
A. You know, I don't recall her specific words, but that wouldn't surprise me if that's what she said.
Q. Did you read Durham's testimony where she said she actually tested the unit before using it?
A. You know, I don't -- I don't recall that specifically. It does seem somewhat familiar. I don't recall that specifically.
Q. You don't remember her saying she tried to force it open and couldn't?
A. I don't remember exactly what she said. I think there was something about she may

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have tested it or applied some force to it, but I don't -- I don't recall what her words were exactly.
Q. All right. And she certainly didn't measure the force she applied?
A. I'm sure that's true.
Q. All right. But whatever she did, she couldn't get it open and she tried?
A. Yeah. I mean, I would let her testimony speak for itself. I don't remember exactly what she said.
Q. All right. Well, if we assume she tried to open it and couldn't, it demonstrates the efficacy of the locking mechanism?
A. Not necessarily, because it could simply be the pressure that's high enough to hold it locked regardless of the locking mechanism.
Q. The pressure which creates friction on the lid?
A. Exactly.
Q. Well, between the lid and the base?
A. Yes, that's fair.
Q. Okay. Berkeley Engineering's testing demonstrated a lock function?

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A. Yeah, I think that's fair.
Q. And the testimony by SEA, defense expert, demonstrated the lock function as well; correct?
A. I think -- you know, I don't remember every bit of his testing, but I imagine that it did. I think it did.
Q. How much force -- when you say that this locking mechanism is good enough, how much force do you think it could withstand applied at the edge of the rim, edge of the lid?
A. Oh, you know what, we didn't measure that on this unit. Usually when the -- well, the UL standard is, requires 100 pounds of force applied at the outmost portion of the, of the lid handle, but it's my experience that, you know, numbers that are lower than 100 are still more than a single user could do. Like I would say that 50 to 75 pounds at the edge of a lid is probably all somebody could do and they'd have to be trying. I mean, that's still using their hands, no tools, but you'd have to be trying to do that. I don't -- I don't think you'd get

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anywhere near 100. I don't think you could do that.
Q. All right. And you're not sure that someone could exert 50 pounds at the edge?
A. No, I think you could do 50. I think I've been able to do 50. So I don't think I've been able to do 100 without, you know, using a second person or a tool.
Q. Okay. Do you think a normal person could exert 75 pounds of force at the edge of the rim -- edge of the lid? Sorry.
A. I think that maybe, maybe. I mean, I think that's at the very high end, but you'd know. At that point you'd probably know, right, because that's a fairly high force.
Q. You would know that you're doing something wrong you're saying?
A. Well, you'd know that it's not easy to open. That's what I would say.
Q. You'd pass -- you'd pass by the two finger close to don't do that force open at 75 pounds? You'd agree with that?
A. Yeah. I think, I think when you hit 75 or more you would recognize that now you're,

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I would call -- I would call that forcing it open at 75 pounds.
Q. Okay. Sorry, I'm looking for my document. While we're on the force issue here, I want to just kind of clarify what we're talking about as far as force and where it's applied.
Do you see this exhibit?
A. I do.
Q. Okay. It is -- it's one of your photographs that I drew some nice pretty red lines on. And I don't know what photograph it was. I think it is -- whoops, my bad. I think it's your photo that ends 287.
A. Okay. I can do a quick check on that.
MR. CALLAHAN: And this is going to be Exhibit No. 10.
(Exhibit Rondinone-10 was marked for identification.)
THE WITNESS: Yeah, I think it's just a cropped version of that photograph. You just cropped it.
BY MR. CALLAHAN:
Q. Yeah. I might have not intentionally,

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but just so it's clear, I drew a red line down roughly near the center of the lid. I'm not going to -- I'm not going to -- I didn't measure it, I eyeballed it, but would you agree that's roughly the center at least for our purposes?
A. Yeah, I would say that that's a good ballpark.
Q. Okay. And we're talking about a hundred pounds, the UL standard for, well, the test from Section 9 of UL 136. That is a hundred pounds of force at the edge of the rim. That's out here where the longer line is; right?
A. I think it's actually at the edge of the farthest point of the lid which would be at the end of the handle which is a little further than how you've drawn your arrow.
Q. Okay. It's at the edge of the fin?
A. Yeah, I think that's fair.
Q. Okay. Let's talk about the handle. I mean, there is nothing out here on the edge of the pot to grab onto; right? Most people grab it and try to open it with the handle;

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correct?
A. I don't know about most people. Because the way this is designed, you could very easily pinch the ears with the base, the ears on the base, and you can use, you can just use a squishing, pinching motion with your hands to open or close it, so that's what the ears allow you to do. So you could easily apply force at the edge of the ears. That's actually very easy to do with this design.
Q. So you think the ears are a design flaw or could be?
A. Well, I would, I would say that the ears allow you to apply force at the very edge which means you can use a smaller force to open it. I don't know if I would rate it as a flaw or not because I haven't really thought about that, but it certainly allows the user and you should anticipate a user being able to use that to apply force. I mean, it's clearly, it's clearly there and it's clearly adjacent to the ears on the bottom of the base.
Q. When the lid, when the lid is closed the

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ears overlap with the handles; right?
A. Yeah, but that's, that's exactly why it's easy to pinch because then you can grab one part of your hand on the ear and the other part of your hand on the base and squeeze your hand together and be able to apply force right to the end. You can do a decent size force out there.
Q. What's decent size force pinching with your fingers?
A. Oh, I don't know, you can probably get maybe 10 pounds with each hand and you could do both hands simultaneously. Maybe you could do a little bit more, but not much, not much more. I don't think you could get 50 pounds.
Q. Okay.
A. I think maybe, maybe Schwarzenegger could back in the day.
Q. Popeye with giant forearms maybe, something like that?
A. Yeah, Popeye probably could. I don't know that I could.
Q. Okay. Well, there is a handle on this

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unit; right?
A. Yes.
Q. And if you twist on the handle you're, you're losing some mechanical advantage as opposed to applying force at the edge of the rim -- at the edge of the lid; correct?
A. That's true.
Q. Okay. How -- do you know how -- what's the diameter of the lid? Do you know? Is it about 10 inches?
A. You know what, I think out to the edge of the ears it's like, I want to say it's about a foot, but I don't -- I haven't memorized that. I'd have to look at it, but I think 10 inches to a foot is a -- would be a good estimate for the total diameter.
Q. Okay. And how about to the edge of the handle in the inside part where this red line is?
A. The inside of the handle I think is about half that, maybe a little more, but, you know, ballpark.
Q. Okay. So, again I mean we could get a, we could grab a lid and do an actual

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measurement, but just estimate, using these estimates you'd agree that a hundred pounds of force applied at the long line, you'd need almost 200 pounds of force at this, at this point on the short line to be equivalent; right?
A. Yeah. I mean, the way they're drawn I'd say that's a good ballpark.
Q. Okay. So if you use the handle to try to open it, it kind of limits the amount of force that one human can apply to the open lid; right?
A. Yeah, but when we, we've done testing with not this pressure cooker but with a number of similar design cookers, and without a sufficient interlock at about 4 psi grabbing the handle you can open the lid typically, like not just grabbing at the ears, but going at the handle. So the 4 psi, that's where we get the 4 psi from.
Q. Okay. But that's not an Instant Pot product?
A. No, but in terms of its functionality and the resistance without the interlock I

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think it's very similar.
Q. All right. Here is my -- here is my point I'm trying to get to here. Do you think that the handle which limits the mechanical advantage of the user is a positive safety feature?
A. I don't know that I would rate the design of this lid as positive and negative. It has the handle and it has the ears, so you can't make the argument that the presence of the handle limits the operator's force, because it doesn't, right. There is absolutely nothing that prevents the user from using the ears that are designed on it to do that, so I would say you can't make that claim is what I'm saying.
Q. All right. Even though the ears you can only access with your fingers, the lid you can use full force of your arm?
A. Correct. Correct, but I found that having the ears and being able to pinch is sometimes a way to get a nice -- a better torque applied.
Q. I'm bringing up a couple more exhibits.

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Bear with me.
Okay. Would you agree that the Instant Pot product in the Durham case is a durable design?
A. It appears to be. Yeah, I would say that it does appear to be a durable design.
Q. During your examination did you see any signs it was damaged or abused?
A. I did see signs of damage. I believe that the inner pot had a dent and I believe that the lid had evidence of heat exposure.
Q. Well, let's talk about the lid quickly and then we're going to go through this more detailed. The heat exposure is not heat from steam; right?
A. No, that appears to be external heat exposure.
Q. Okay.
A. Not from this device.
Q. Yeah. The steam from the unit can't melt the plastic on the lid?
A. Not at any of the pressures I think it would operate at, no.
Q. Okay. You mentioned the dent on the

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lid.
A. On the pot.
Q. On the pot, sorry, my mistake.
MR. CALLAHAN: This is going to be Exhibit No. 11. It's 156.
(Exhibit Rondinone-11 was marked for identification.)
BY MR. CALLAHAN:
Q. It's one of your photographs. That's the dent you're talking about?
A. Yes.
Q. And there is another view of the same dent. I'm going to mark that as No. 12. It's 169. It's a picture of measuring or demonstrating the depth of the dent; right?
A. Yeah, yes.
(Exhibit Rondinone-12 was marked for identification.)
BY MR. CALLAHAN:
Q. What caused the dent?
A. I don't know.
Q. You have no explanation?
A. Well, I can't say what caused this dent. It's my experience that a pot like this with

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a dent of this geometry would typically be caused by an impact either from say shipping or dropping or hitting it with a hammer. I mean, those are all things that could do it. It appears to be an impact style dent.
Q. All right. When the unit is shipped this inner pot is in the base unit; right?
A. Usually. I mean, that's how I would do it.
Q. That's how Instant Pot does it, too, isn't it?
A. I believe when they're new the pot is inside the base and the base is inside a Styrofoam frame which is then inside a cardboard box.
Q. Okay. And it would be -- I mean, do you have an explanation as to how the dent would occur during shipping and not damage the base?
A. Oh, I think the only way it would occur during shipping is if it were not packaged with the OEM packaging.
Q. Oh, okay. Do you have any estimate of how much force would be required to cause

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that dent?
A. You know, I haven't measured that force, but the wall thickness of the pot is very thin, so it wouldn't be a lot of force. It's not a high force event.
Q. All right. Well, it also, it's at a corner, too; right?
A. It is, yes.
Q. Which gives a little more stability. It's a three-dimensional curve or shape?
A. No. Only when you're right at the base. As soon as you get up the wall a little bit, it's not that much help. You can actually see the deformation is not at the base. You see how it primarily is farther from the base, so that's what I'm pointing to.
Q. Could that dent have been caused by someone dropping the pot?
A. It could be.
Q. Could that dent have been caused by someone dropping the pot while full of liquid?
A. Yeah, I think, I think that could happen.

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Q. Okay. If you drop a pot full of liquid, what happens?
A. It depends on how it falls and how much liquid is in there. The liquid could stay in. The liquid could spill out.
Q. All right. I'm kind of curious. You measured the depth, but there is no reference to it in your report. Why is that?
A. Because I don't know how the dent occurred.
Q. I'm going to skip over that one. Sorry.
This is your Photograph 230.
A. Yes.
MR. CALLAHAN: We're up to Exhibit 13.
(Exhibit Rondinone-13 was marked for identification.)
BY MR. CALLAHAN:
Q. What does this show?
A. Actually, I'm trying to remember where that came from. I think that is, I want to say that's part of the base. That's the handle or edge or ear of the base below the lid.

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Q. All right. Maybe that will help you, Exhibit 238.
A. Yeah, that's a -- that's a good description of where it is. It's attached to the base. It's sort of the handle ear section.
Q. The handle broke; right?
A. Yeah, it looks like there is a fracture of the plastic.
Q. All right. The handle isn't referenced. The broken handle isn't referenced in your report anywhere, is it?
A. That's correct.
Q. Any explanation for that how that occurred?
A. No, I don't know what caused that to break off.
Q. Any measurement of or any estimate of the force required to break that handle off?
A. You know, I haven't, I haven't tried to make that measurement. It would depend upon the aging of the plastic and whether or not there was a defect in the plastic to come up with that source. No, I haven't measured

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that.
Q. Could this broken handle have been caused by the pot being dropped?
A. I think it could be. It definitely appears to be. I was just going to say it definitely appears to be an impact style of failure.
Q. Based on the fracture point?
A. Based on, yeah, yes, exactly, based on review of the fracture.
Q. Could this type of damage have been caused by the pot tipping over on a counter?
A. You mean just falling from upright to sideways on a counter?
Q. Yes.
A. I don't think so. You'd have to give me a -- you'd have to show me a hypothetical where that would be realistic. I don't think that that distance would be sufficient. Maybe falling to the floor or maybe during shipping again without the OEM packaging.
Q. Unlikely to have occurred during shipping with the original product packaging from the store?

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A. Yeah, barring some kind of defect in the plastic, like unless it's already got some kind of large pre-crack, I would say yes, that's true.
Q. Could this handle have been broken off by something being dropped on the pot?
A. I guess if it's heavy enough that's possible. I guess that is possible, yeah.
Q. And if something was dropped on the pot while it had liquid in it, what would happen to the liquid?
A. Well, to break this handle what would probably happen is the handle would fracture and the liquid would just kind of slosh around but not come out if something was dropped on the handle.
Q. All right. Well, if you can say sloshed around, it could come out if it's sloshing around depending on how hot it is; right?
A. I mean, if it's all the way up to the top maybe, but usually when something drops on a piece of plastic like this to cause the fracture, the fracture in an impact like that is immediate meaning that as soon as that

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force breaks the lid -- the handle, it no longer applies any type of force to tip over the, the unit. So to me, to me it seems like it's unlikely something falling on the handle would cause the contents to come out in any significant fashion.
Q. All right. But not impossible, it's just unlikely?
A. It's not impossible, but I'd say it's extremely unlikely.
Q. How about some, something stuck in that little slot and like leveraged off the handle, could that have occurred?
A. Yeah, I guess you could do that. You could put like a screwdriver or a crowbar in there or something. I guess you could, but you'd have to -- you'd have to impact it, meaning you'd have to put it in and pound on the tool basically. I think that, I think that could cause it.
Q. How about if the lid was set into that little slot, could you push on the lid and break it off?
A. I -- like maybe using -- I don't -- I

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don't know what part of the lid would fit, like if the ear, if the ear of the lid fits, which I'm not sure that it does, but if it did I'd bet you'd break the ear first then before your break the handle just because the ear is thinner, has, has a lower resistance to bending. That seems unlikely. It seems unlikely to use the handle as a bending tool.
Q. How about something like a kitchen utensil like a wooden spoon or something, could that be put in there and break it off?
A. If it's a strong enough wooden spoon, I mean, I've seen wooden spoons that I don't think could do it. Maybe like a heavy metal, metal tool, like a heavy metal ladle or something. I don't know, maybe a metal tool. I guess a wooden tool if it's strong enough could do it.
MR. CALLAHAN: All right. This is a picture of the lid. It's 276. This will be 15. And I think the next one is also the lid. Yeah, here is another picture of the lid. This is 278. This will be 16.
(Exhibits Rondinone-15 and

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Rondinone-16 were marked for identification.)
BY MR. CALLAHAN:
Q. These two pictures show heat damage to the lid; right?
A. I agree.
Q. And you don't know when this occurred?
A. No. There isn't -- there is no way to know.
Q. Was the sealing ring or the -- yeah, the sealing ring inside the lid, was that also damaged by heat?
A. Not significantly, because I believe this lid could still seal. You know, in our testing I think this is the lid we used. I know that we used an exemplar weight, pressure release weight valve, but I think the rest of it sealed. So I don't think that this was functionally detrimental. Even though it looks pretty bad, I think it still works.
Q. Well, that's my question. You tested the unit. The inner pot was dented, the handle was broken off, the lid was melted, and it still operated safely during your

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test?
A. That's true.
Q. It functioned exactly as intended even notwithstanding all that damage?
A. I agree with that.
Q. In Section 2 of your report, and maybe I'll bring that up so we can look at it. Section 2 you offered a conclusion that the float valve is exposed to potential clogging from food, despite the fact that Instant Pot has used pressure protective -- has used protective screens in other pressure cooker models.
A. Yes.
Q. That's your opinion in this case; right?
A. Yes.
Q. Can you quantify this potential in any way?
A. Um, no, I don't think -- I don't think I could statistically quantify that.
Q. So this potential causing -- clogging could occur one in every hundred uses or one in every hundred thousand uses or one in every hundred million uses?

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A. I mean, I wouldn't put a number on it. I'd say that I personally have seen cases where the description provided by the witnesses indicate clogging of the valve from food, and I've seen that more than once on Instant Pot cases. So, you know, I don't think it's like one in a hundred thousand or one in a million, but I couldn't give you a number, a specific number.
Q. Well, what's the description that leads you to conclude it might have been clogging of the valve?
A. Well, because the valve, the physics clearly dictates that the valve's exposure to the cooking, to the cooking food will allow the potential for the food to clog. I mean, it's exactly why Instant Pot is using a shield on its pressure release, because they don't want food to be entrained and they don't want food to get into the valve and they don't want food gumming up the seal or hitting the feet or any of that.
And Instant Pot uses a shield for this exact float valve on other products, but

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the fact that there is no shield, there is no protection, means that you are exposing it to the food which can clog it.
Q. My question was, what descriptions of incidents suggest a valve close -- a valve clogging?
A. Oh, well, so this, this description of this incident is a very good example, right. We have an incident that's described as the pressurized release of contents which can only happen if it's under pressure while the unit is being opened by hand.
The interlock mechanism on this pot in my opinion is sufficient to prevent the unit opening under pressure that would eject contents, which means that in order for the description of the pressurized release of contents to occur, this valve has to be clogged in a position that doesn't interface with the interlock.
And by not interfacing with the interlock, it will allow a user to open it when the pressure is fairly low, meaning I believe most likely around 2 psi, because the

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description does not describe an event with extensive release of contents. It sounds like the release of contents is actually fairly small. None of the food actually comes out, only liquid in the description, and to me that indicates a fairly low, about 2 psi pressure release I'd just say based on my experience, and that to me indicates that you had to have had a clogged float valve, because the clogged float valve would allow a user to open it without the benefit of the interlock, and it will allow it to hold pressure even if the valve appears to be in the bottom position, the lower position.
Q. Okay. So is it your opinion that because she was able to get it open the valve had to be clogged?
A. In order for her to have gotten it -- in order for her to have been able to get it open and have a described pressurized release of contents, then I think in this case the valve has to be clogged, yes.
Q. Any other basis for your opinion the valve was clogged?

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A. With the -- with the evidence in this case, no. I would say that's it. I have had other Instant Pot cases where the descriptions are very similar to this where the user is describing the capacity to open the lid when, when the unit is under pressure. And in those cases I believe, at least in some of them, the interlocks were functioning, which means it can only happen with a clogged valve to get a pressurized release, so this isn't the only time I've seen that. I think that's it.

Q. Have you written a report in any other Instant brand case where you said the float valve was clogged?

A. I don't know.

Q. Okay. So let me see if I, let me see if I understand. So you have -- I'm trying to bring a couple of answers together in one place if I can.

So the reason you believe the float valve was clogged or was clogged is the user was able to open it, there was an ejection of contents, the ejection was small,

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and I guess throw in there the locking mechanism is more than sufficient to prevent her from opening it under pressure?

A. Yes.

Q. Okay.

A. And I would also add from one of the earlier answers that we do know that, that you can potentially clog it, right. So you put all of those pieces lined up together and you get this opinion.

Q. Okay. No other basis?

A. I think we've covered everything.

Q. Okay. Can you rank these supporting bases in order of importance to your opinion?

A. No. I'd say that you'd probably have to have all of them, right. You'd have to have an interlock that, that's not interlocking, meaning the float valve is in the down position. You have to have a clog to hold the pressure while the float valve is in the down position. You'd have to have a user apply a turning motion to open the lid. You'd have to have the pressurized ejection of contents. I'd just say you have to have

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them all. I think they're all necessary.

Q. Okay. So if a jury disbelieves any one of them or a judge disbelieves any one of them, your opinion has no support, at least scientific support as you've defined it?

A. If you make an assumption that any of those things are not present, then I guess you don't get the pressurized release of contents, I guess. I think that's what the result would be.

Q. Okay. If, if the float valve -- well, let me say it this way. If the lid is fully closed, the float valve is not blocked from rising or falling; correct?

A. Okay.

Q. True?

A. Well, if we make the assumption that it's not clogged then that's true.

Q. All right. Well, what happens under normal operating conditions to the float valve?

A. Under normal --

Q. If there is contents in it, what happens?

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A. Under normal operating conditions if the lid is fully closed the unit will start to build pressure. It will build sufficient pressure to raise the float valve to its up position and then it will continue to build pressure to operating pressure.

Q. Okay. How long does it take for the float valve to rise?

A. That depends on the thermal mass of the contents and probably also the ambient temperature and the temperature of the contents when they're put in, but, you know, it's in the minutes range. It's not in the seconds range. It's not in the hours range.

Q. Okay. So minutes?

A. Yeah, I believe so.

Q. What's that?

A. Yes. Yes, I agree minutes.

Q. And during this time the contents are heating; correct?

A. Yes.

Q. So for some of these units the contents are relatively cool, they're not cooking yet; right?

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A. As soon as the power is applied to the heating element the contents will start to raise in temperature.
Q. All right. The cook cycle starts or the countdown starts when the unit is pressurized, well, when the unit reaches pressure, cooking pressure; right?
A. Yes, for pressurized cooking I believe that is true.
Q. Okay. And when the float valve is up, is it susceptible to clogging?
A. Is there a question?
Q. Oh, you didn't hear me?
A. Well, you said and the float valve is susceptible to clogging and that sounded like a statement to me.
Q. I'm sorry, maybe we cut off with Zoom. If the float valve is in the up position, is it susceptible to clogging?
A. You could still clog it in the up position, but I believe that -- I guess it's possible. I guess it's possible, but if it was clogged in the up position it will still function as an interlock device.

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Q. Define what do you mean? How could it clog in the up position?
A. If the float valve is raised to the up position and then later in the cooking process the food had clogged the -- and I guess in this case it's more like stuck the valve, right. The food has come over the bottom of the float valve and has kind of clogged its position, meaning it stuck its position. I would consider that a clog even though it's in the up position, but if it's in the up position when that happens then I don't think you could open, a user could open it with manual force.
Q. Okay. So if the float valve rises and is stuck in the up position, that's a safe position in this product?
A. Yes, I agree.
MR. CALLAHAN: Okay. Whoops, I almost pressed leave. This is going to be marked Exhibit 17.
(Exhibit Rondinone-17 was marked for identification.)
BY MR. CALLAHAN:

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Q. It's a document. It's one of your photos marked valve, Float Valve B. Do you have that in front of you or visible?
A. I do see it. Yes, I do see that.
Q. Okay. I just want to be sure I understand your opinion here. This is the, this is the float valve in a down position; right?
A. Yes.
Q. And it's your opinion that basically food rose up from the bottom into this space here, clogged the orifice and clogged the two bypass holes?
A. Yes, and also the act of pressurizing will then push the float valve to capture what food is present in there, so yes, you're essentially right. The blue arrows indicate at least approximately the motion of the product to cause the clog.
Q. All right. And for your clogging to occur the entire circumference of the orifice has to be clogged; correct?
A. Yes.
Q. And both bypass holes need to be

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clogged; correct?
A. Yes, or the food has to get into the cylinder just past the bypass holes, but yes.
Q. All right. Or I guess the entire, the entire bore through the cylinder could be clogged as well; right?
A. I mean that's possible, yes.
Q. Any more or less possible than your general clogging scenario?
A. No. I mean, I wouldn't -- I wouldn't statistically quantify any of those.
Q. Okay. When the float valve is in the up position the food can't pass the silicon seal to get up in the orifice; correct?
A. No. If the float valve is in the up position, the food will either go on top of that elastomeric seal or the food can act as a stiction between that elastomeric seal and the bottom of that outer cylinder assembly through which the valve moves up and down.
Q. Is it your opinion that the float valve must be blocked down for this clogging theory to occur?
A. In order for the theory that I've

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expressed in my opinions to occur I believe that the float valve is clogged while in the down position, and I believe that that can occur in a more easy fashion because if the lid is closed nearly all the way but not all the way, the unit will cook and the slider will prevent the float valve from coming up all the way, but it will allow it to come up a short distance, and it's in that position where it's still in the down position, the nonlocked position, where the clogging can then allow a user to open the unit while it's still under pressure.

Q. I'm sorry, my phone rang and distracted me. I'm not sure you answered my question. Is it necessary that the -- for your hypothetical clogging scenario to occur, is it necessary that the float valve be blocked down?

A. It has to be blocked in the down position in order for a person to be able to apply a manual force to open under pressure.

Q. So if the lid is fully closed your theoretical valve blocking cannot occur?

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A. No, you can still block it in the down position. The food would then be the -- the food blocking would then be providing the down position maintenance.

Q. All right.

A. I just think it's easier if you have the help of the slider.

Q. Because if it's fully closed you only have a few minutes to block it before the float valve rises; right?

A. That's true. I'd say that's fair.

Q. And is it your opinion that this total circumphral clogging and filling the bore can occur in the first few minutes during that temp --

A. I believe it could. Yes, I believe that it could, although I think it's more likely that the lid was not quite fully closed and that allowed the slider to assist in keeping the float valve in the down position, but I believe it could occur either way.

Q. And what's more likely than the other?

A. I believe it's more likely that the lid was nearly fully closed but not fully closed.

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Q. Can you quantify the risk of the float valve being blocked in the down position while fully closed, while the lid is fully closed?

A. I would not -- I would not put a statistical quantity on that.

Q. Because you cannot?

A. I cannot.

Q. And you can't put a statistical quantity on when it's blocked down either because you cannot?

A. That's true. I have not done sufficient testing to evaluate either of those quantities.

Q. The float valve, is it important that the user inspect it regularly?

A. I mean, I would. I think that you do want to make sure that it moves freely.

Q. You wouldn't clean it?

A. Well, to a certain extent. I don't know how many users would take it apart and clean it and put it back together. I think that might be beyond most user's ability, but I think you'd at least want to do an external

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cleaning of it.

Q. How do you clean it? How do you take it apart?

A. Most of these float valves allow you to take off the elastomeric endpiece and then pull it from, from above.

Q. So you pop the little white piece off and it falls out?

A. Yeah, for most of them that's how you do it.

Q. And that's how this one, this one is too; right?

A. I believe that's how this one functions as well.

Q. And there are -- you don't know?

A. I don't recall trying to take the elastomeric end off of this particular float valve, but that's my understanding of almost every one I've ever seen. They'd be that exact way.

Q. Did Mr. King take it off?

A. I don't recall.

Q. Did you see a photograph of him taking it off?

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A. Possibly. I haven't memorized every photograph I have. Would you like me to look through? I'd be happy to do so now.
Q. I'm not sure that's necessary. I think the photographs speak for themselves.
A. I would agree with that.
Q. If the float valve was covered by a protective screen, is it more likely or less likely that a user would check the float valve and clean it?
A. Um, I think if the user were given specific instructions on how to remove the gate -- the guard and then clean it, I don't think it would be any less likely. And in fact, a lot of the cookers that have the full baffle underneath the lid, that full baffle is meant to be taken off and cleaned which would then expose this exact mechanism that we're seeing just like this. So, no, I don't think it would be less likely that they would clean it.
Q. Sorry, I'm grabbing a couple of pictures.
MR. KRESS: Dennis, for planning

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purposes, how much do you think you have left?
MR. CALLAHAN: Two and a half hours, three hours maybe.
MR. KRESS: All right.
MR. CALLAHAN: Do you want to take a break?
MR. KRESS: Yeah, we'll be taking a few breaks.
MR. CALLAHAN: All right, whatever. Let me know.
THE VIDEOGRAPHER: Do you want to do a break now?
MR. KRESS: Yep.
THE VIDEOGRAPHER: All right. Off the record, 4:30.
(Recess; 4:30 p.m.)
- - -
(Resumed; 4:39 p.m.)
THE VIDEOGRAPHER: We're back on the record.
BY MR. CALLAHAN:
Q. Okay. I'm sharing. I already marked this. Sorry, my bad. The inspection notes

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which were previously marked as Exhibit 3, do you see that in front of you?
A. I do.
Q. All right. I want to talk about these lid position measurements down here.
First of all, you didn't take these measurements, did you?
A. I think Derek King was the one who recorded them. I might have -- I can't remember if I was present when they were taken or not, but I have seen the measurements. I think he was the one who recorded them.
Q. And how do those measurements relate to this photograph, Exhibit 402?
A. So -- yeah, so you can see the measurements marked. I'm going to pull up my note file. Yeah, so you can see how there are arrows at the 0.5 centimeter, 1.4-ish, it's like 1.35 or something, just between 3 and 4, just over 2, about 2.1 centimeters and then at 2.8 centimeters. Those arrows I believe are indications of the marks that are showed at the, at the lid positions that are

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measured in the note file.
So you can see when you slide the lid slightly the slider is fully retracted. If you slide it further, you can see the slider starts moving due to the interaction of the flange at 1.4. If you slide it further -- so we're starting at the closed position and then you're moving away. As you applied it farther from the closed position towards open, at 2.1 centimeters the slider now obstructs the float valve, and then at 2.8 centimeters the magnetic switch engages the detection of the lid now being detected at the not fully closed position. That's essentially what that means.
MR. CALLAHAN: Okay. First of all, this photograph, Exhibit -- I've marked it as, actually it's going to be 18. Sorry, and the exhibit number ends 402.
(Exhibit Rondinone-18 was marked for identification.)
BY MR. CALLAHAN:
Q. This is one of your -- this is a Berkeley Engineering photograph; correct?

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A. It sure looks like it. What was the number on it, 402?
Q. 402.
A. Yeah, that's exact, yeah. Yes, it is one of ours, yes.
Q. Okay. And this shows the lid in a fully closed position; right?
A. Yeah, this is a closed position orientation.
Q. Okay. So this is the top piece up here is the lid and it bumps up against the stop here on this lower lip; right?
A. Yes. That is against the stop, yes.
Q. All right. And the first little arrow means what?
A. So the first arrow is where it starts. It's up against the side.
Q. Okay. What do you use to measure it in the lid?
A. You can see there is a mark on the outside of the lid, it's just like a circular mark, just the edge of that mark.
Q. All right. That's the -- is that the hole for the --

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A. No, I believe the slider is somewhere else. It's not visible in the photograph. If we look at --
Q. Okay.
A. Yeah, I'm looking at, hold on -- well, that might be where it's coming out. Let me flip through my photos. It is, it is about the right size and orientation and it's in about the right place. Yeah, no, I think that is where. I think that is where the pin exists for the slider. I'm going to say that -- you see that metal section? Yeah, when you zoomed in you could see it. That's a much better view. You see when you zoom in you can see the metal reflection on the end of the pin?
Q. Yes.
A. Yeah, so that's what we're looking at. And the marks on the, on the ruler at the bottom are at the edge of the circle, not the -- not the pin it itself.
Q. Okay.
A. Yes.
Q. So this first mark, that's fully closed?

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A. Yep.
Q. Then at 1.4 this slider begins to move meaning what?
A. Yeah. So at that point the slider is engaging the flange that is not visible but it's on the base unit, and that's forcing the slider radially outward. So that's where the slider starts to move and that's part of the interlock mechanism. The moving of that slider is what would be prevented if the float valve were up.
Q. Okay. And then 2.1 is what?
A. 2.1 is the slider has now moved far enough that the slot in the slider is no longer aligned with the float valve and it would prevent the float valve from, from rising.
Q. All right. So anywhere between .5 and 2.1 is essentially closed; correct?
A. That's right.
Q. There is no, there is no difference between .6 and 1.6. From the pot's perspective it's going to function the same; correct?

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A. Yeah, I think that's fair.
Q. The magnetic sensor will sense the lid is in a proper position. The float valve is unrestricted and will rise and pressurize; right?
A. Yes, that's correct.
Q. Okay. So earlier when we were talking about, well, maybe the user will bounce the lid off the stop, they've got to bounce the lid off the stop all the way back out to this 2.1 mark to make a difference; right?
A. Yeah, it would have to move about one and a half centimeters.
Q. All right. And then this difference between 2.1 and 2.8, this is the range you say that it senses the lid's position but the float valve is still blocked?
A. Yes.
Q. Okay. And the blocking of the float valve is by design; correct?
A. Not at this position it isn't, because it's only by design when the lid thinks that it's not fully closed. This is not by design. What you're looking at here is

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something that the electronics believe it's fully closed when in fact it is not and it will not function if fully closed properly.
Q. Okay. When is the lock engaged?
A. What do you mean?
Q. Well, if the -- never mind. Strike that. I'll ask a different question.
MR. CALLAHAN: I'm going to move to the next picture, 403, and I'll mark this as No. 19, Exhibit 19 for the deposition.
(Exhibit Rondinone-19 was marked for identification.)
BY MR. CALLAHAN:
Q. This is the other end of the tape?
A. Yes.
Q. What do these numbers represent?
A. They're the last three entries in that text file. 6.9 just before 7, that's where the slider is still fully obscuring the float valve. 7.9 just before 8 is where the float valve is barely obstructed, meaning at that point the float valve will not rise, and then 8.4 is all the way, is all the way open as far as it will go.

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Q. Okay. In all these positions if the lid is only turned that, that much, the unit is not heating; right?
A. In all of these positions the unit will not heat.
Q. All right. So basically anywhere from 2.8 out to 8 and a half, the unit is not heating at all?
A. That's true.
Q. So it's your opinion that Ms. Durham left the lid in this gap between 2.1 and 2.8?
A. I think that's the more likely of the two scenarios, yes.
Q. Can you quantify the chance that a user will leave the lid in this intermediate position between 2.1 and 2.8?
A. No. And I just want to say that I think you've already asked me statistical questions maybe 20 times or so, and the answer is always going to be the same, and I'll just say it very clearly. I have not done statistical analysis on this. I have not done the required, you know, hundreds or thousands of tests that would be necessary to

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perform that statistical analysis, and so I do not have quantitative numbers for the statistical results for any of these, right. I haven't done statistical analysis or the sufficient work necessary to do that.
Q. All right. So you can't tell me if the user, you know, the lid is going to be left in this position one in a thousand times, one in a hundred thousand times? You have no estimate at all?
A. I don't have a value for that. No matter how many times you ask that the answer is always going to be the same. I have not done the statistical analysis.
Q. And that's because that number is just unknown to you; right?
A. It's because the amount of work necessary to do that whether it's hundreds or thousands of tests, and it might be thousands to do the statistical analysis properly, you just have to know that it can happen. You need to treat it as a risk as such, period. If you want to treat it as non-risk or a low risk, then you would have to do the

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statistical study.
Q. Again, my question is the risk is unknown to you sitting here today in the deposition?
A. And my answer is the exact same. The risk is known because it is present. The number or the value of the risk, a statistical number is not known without doing the testing.
And in order to assume that the risk is a small value, you need to do the statistical testing because you have to prove it's a small value. If all you want to do is assume that it's possible and therefore a risk, period, end of story, you do not have to do the statistical testing.
So for my opinion, you don't have to do the statistical testing because I'm not trying to demonstrate the number of the -- the value number of the risk, but if Instant Pot or if somebody wants to claim that this risk is insignificant then they have to do the statistical study to demonstrate that, period. And that will be the same no matter

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how many times you ask the question. My answer is still the exact same.
Q. Ms. Durham testified that the lid was fully closed, did she not?
A. I believe that she stated that the lid was closed or certainly that she believed that the lid was closed.
Q. Do you accept that testimony?
A. Well, I mean, I know she didn't measure it, but I do believe that she believes the lid was closed.
Q. That's not my question. Do you accept her testimony that it was closed?
A. You know, her testimony is what it is. It's my opinion that most likely it was nearly fully closed but not fully closed.
Q. So you reject her testimony?
A. No. You seem to think, and you've asked this many, like three times in a row now, she didn't measure the exact position of the lid and the description of closed to me could be anywhere in this range. Anywhere in this range in my opinion the machine thinks it's fully closed, and therefore I would call it

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fully closed even though there is a 2.8 to 0.5 centimeter range there that we've identified.
So you can't, you can't say that I'm disregarding her testimony, right, because that's kind of like saying that the machine is being disregarded as being fully closed, right. I'm just saying that I believe that she believes that it was fully closed.
Now, does that mean up against the stop or does that mean somewhere in this 2 centimeter range, I don't know, but I'm not throwing out her testimony and saying that she's wrong. I'm just saying that, yeah, she believed it was fully closed.
Q. But her testimony is not that she believed it was closed. She testified she checked the marking on the front of the lid, it was centered, and the fins lined up with the handles. That's her testimony, isn't it?
A. So why -- why don't you read me her testimony then so we can just not have any more guesswork on that. Why don't we just do

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that and sort of skip all of this back and forth. I think we'll save time.
(Pause.)
Q. Okay. This is Ms. Durham's testimony from Page 143. Right there, 143?
A. Okay.
Q. You reviewed her deposition; correct?
A. Yeah, I believe you already showed us that she believes it's counterclockwise to close, which by the way I do believe is incorrect.
Q. Okay. I asked her. Actually I think I got it wrong.
A. And that's possible. Yeah, it's possible your question was wrong and she agreed with you.
Q. Yeah, at some other point. Yeah, I had my lefty-loosey, right-tighty thing all backwards. Her answer was when I asked her do you turn it until it stops or is it some other point, she says, "It will stop. It will -- when it closes and locks it will stop. The lid handles -- well, the lid fins will meet up with the handle, well, on the

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pot."
You know, what she's referring to, right? We talked about the fins before?
A. Yeah, exactly. And because the pot handles are much wider than the fins, it could -- it could be in the not fully closed position and still be lined up.
Q. And I again ask her, "And do you remember on the incident that you turned the lid all the way so it stopped?" Her answer was, "Yes," not I believe I did, she said yes unequivocally; right?
A. No, no, she definitely said yes, but that's, but that's clearly her belief, right. Every answer, every one of these answers was yes, that's what I believe what it was, right, every single one. She doesn't -- I'm sure she, what she's stating there she believes is absolutely true.
Q. Isn't that true of your testimony as well?
A. I'm sorry, what?
Q. Isn't that true of your testimony as well?

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A. I think that's true of everybody's -- I think that's true of everybody's testimony, and I think that her description of, you know, when it closes and the lid fins meet up, right, and, and it locks to a stop, right, that doesn't mean that it was exactly up against the stop. It doesn't mean that there is only one millimeter position where it could be. It means that she observed that the fins appeared to be lined up.

And she, I don't think she measured any of it. Were the fins in the dead center? Who knows. You know, was the -- was the lid all the way up against the stop? Who knows? That's not what she's saying. What she's saying is that through your question, do you remember you turned it all the way, she's like, yeah, but that's, to me that doesn't say it was only in absolutely one position, couldn't be a millimeter off. That's not what it says to me.

Q. Okay. But a millimeter off is essentially closed according to, according to you; right?

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A. What I'm saying is it doesn't say how far it's off. It could be a millimeter. It could be 10 millimeters. It could be 15. I don't know. She didn't measure it.

Now, am I saying that it had to be partially opened? No, I'm not. It could be closed all the way and it could be clogged in the down position as we already discussed and I already answered in detail, and that's also possible, but I think it's also possible and in my opinion more likely that it wasn't closed all the way because it's easier to achieve the clog in that position, but it could have been closed all the way. I'm not discounting that. I'm just saying that I believe more likely it would probably be not quite fully closed.

Q. I asked her another time about whether it was closed and she described, "Well, it will. The handle -- the handle flaps and the handles will meet. And did that happen, did the handle and handle flaps meet," and her answer was, "Yes." That's in Page 135 of her deposition.

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A. Okay.

Q. Again, she's essentially saying it's closed, right, fully closed?

A. That's right, just like the machine says it's closed when it's not fully closed, right. Your machine, Instant Pot's machine says the unit is fully closed at the 2.8 centimeter mark, okay, and that just means that it's in that range of fully closed.

So when I read this I'm not reading this as, yes, I measured it, this is exactly where it was. It simply means that, yes, that's the approximate position because I think that's all you can testify to.

Q. Under your hypothesis the float valve gets clogged, how long does it take to clog?

A. I don't have a number for that.

Q. Minutes, hours, seconds, what?

A. I don't have a number for that. I don't think it's hours. I think it would be on the order of minutes, but even then I wouldn't give you a number.

Q. You can't put a range on it?

A. Nope.

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Q. That's not important for your opinion?

A. Nope.

Q. What pressure can it reach when it was clogged?

A. When it's clogged you could probably run to operating pressure if it's clogged nicely.

Q. Probably?

A. Yeah. Well, like I said, I haven't done the statistical testing on it. I can't tell you how often and how much, but if it's clogged it will hold pressure.

Q. Do you know how much pressure?

A. I have not measured that.

Q. What happens if the unit doesn't reach operating pressure during its cooking cycle?

A. I think if it doesn't reach operating pressure it probably will just continue to cook or attempt to cook. I don't know at what point it gives up.

Q. Will it begin the countdown?

A. I think the countdown usually starts when a specified pressure is met. Whether that's the full pressure or not, I haven't seen the algorithm, but I believe it would

have to be at least approaching the full pressure in order for the countdown to start.
Q. Your experience was -- you can't answer my question based upon your experience on this unit?
A. Well, yeah, because the operating pressure is not a fixed value. There is oscillation at the operating pressure and so, you know, because I don't have the exact number of which the countdown starts I can't give you the exact number, but I believe it's in that range of the operating pressure.
Q. Did Ms. Durham testify that the cook cycle was unusual in any way?
A. I don't think so.
Q. Did she recall that the countdown started?
A. I don't recall her exact words, but it was my understanding that, that she believed that it went through the full cook cycle which would imply that the countdown had started and ended.
Q. Well, she testified to certain events that occurred during the cook cycle; right?

It's not just her opinion?
A. No, no, no. Her testimony speaks for itself. I one hundred percent agree with that.
Q. Is a normal cook cycle consistent with your hypothetical clogging?
A. Yeah, it could be.
Q. It could not be as well; right?
A. Well, I mean, you can have a full cook cycle with clogging, end of story. Yes, you can do it.
Q. If you have clogging, does the float valve pop up?
A. If the clog is sufficient to hold the float valve down, then no. If the clog occurs when the lid is not fully closed, then no. So those are the two conditions at which the float will stay in the down position, but I guess you could have it come up. You know, I wouldn't rule that out, but sufficient clogging will prevent it from rising.
Q. Okay. If it rises the unit is locked; right?
A. That's true. Assuming that it can rise

all the way, that is true.
Q. Do you recall what Ms. Durham said about the float valve on the day of the incident?
A. Yes. I believe that she, that she stated that she observed it in what she believed was the up position.
Q. This is Ms. Durham's testimony from Page 151. I asked her, "On the day of the incident do you have a specific memory of the float valve popping up at some point in time?" And her answer was, "Well, yes, I remember seeing it." Right, that's her testimony?
A. I completely agree. You are reading her testimony correctly.
Q. That's pretty unequivocal. That's not I think, that's I remember seeing it; right?
A. That's exactly what she says.
Q. If she is correct, "I remember seeing the float valve pop up at some point in time," your hypothetical falls apart; right?
A. Well, first of all, that's not what she said, right. You said, "Do you have a specific memory of the float valve popping

up," and she says, "I remember seeing it." She does not say she remembers the float valve popping up. You do ask down below, "Okay." And she says, "I don't know exactly at what point, but I do remember seeing it come up."

So to me that just means that it moved upwards some distance, right. She didn't measure it. We don't know if it was fully up or if it only came up a millimeter, right. It may have just moved a little bit and she thought, well, it's moved a little bit, that's good enough. Right, we don't have any measurements here.

And what really matters is that, you know, her testimony is all approximate, right. This is remembering something that happened a great deal of time before the testimony was given, and every one of her answers is approximate. I mean, she agreed with you that it was counterclockwise and we know that that's not right. I think she had some other thing about, you know, some volume estimate, how big is a can of Coke, and she

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was off by like a factor of two. She wasn't even close, but that's okay because they're all approximate.

All of her testimony is approximate, and that you really have to -- you have to read it. And if you're suggesting that, well, I'm going to read this as if it were measured exactly, then in my opinion that's not how you -- you can't do it that way. You can't do it. You have to read it as it's all approximate, every, every single answer.

Q. Is it your testimony that without measurements you can't recall things specifically?

A. It is my experience that giving specific answers that are very tight and accurate is very hard to do, especially when a great deal of time has passed, however, giving approximate answers I think is generally pretty good.

So, for example, if she says it opened when it was -- and then fluid jetted out and the lid popped up, those are all

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approximate answers. That's not saying what pressure it was at. That's not saying how much fluid came out. That's just saying that, look, in an approximate sense this is the description.

Just like here in an approximate sense, was it closed, yeah, it was approximately closed. Right, nobody measured it. Did the float valve came up? Yeah, it came up, but it's an approximate sense, right. It may have came up a little. It may have come up a lot. And you just have to, you have to read them as approximate. You can't read them as exact values.

Q. How far up does the float valve have to go to interfere with the slider and prevent opening?

A. I think that total travel distance is, I'm going to ballpark it at a little under a centimeter, but it's in that, you know, 5 to 10 millimeter range.

Q. You never measured it?

A. I don't recall measuring it. I don't recall.

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Q. And what's your testimony worth if you haven't measured it?

A. It's only approximate, isn't it, that's exactly right. Right, this is a perfect -- you're giving a perfect example, right. I'm giving you an approximate answer. I don't know the exact number. I'd have to go measure it. That's perfect. Thanks, that's perfect. I agree 100 percent.

Q. Is this the only time she testified about the float valve coming up, by the way, do you remember?

A. No, I think it might have come up more than once. I don't recall, but --

Q. In any of her other testimony did she say something, I guess, I approximate, I don't know, maybe?

A. I don't think she ever used the word "approximate."

Q. Okay.

A. I don't recall her using that.

Q. Let's turn to Page 139 of her deposition. I asked her, "That silver button, that silver float valve, was that

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you" -- "was that loose? Was that sliding properly the day you used the pot, the day of the incident?" Her answer was, "Yes."

"It was working properly as far as you know?"

"Yes."

"Okay. And it did pop up; right?"

"Yes."

"Well, let me ask a better question. When you first put the lid on was it down?"

"Right. And after pressure --"

"And did it pop up?"

"Yes, yes."

She's not saying it moved a little, she said it popped up, didn't she?

A. Yeah, but she didn't say how far. Why would you assume that it's the full distance?

Q. Why would you assume it's not?

A. I'm just saying it's approximate, and remember --

Q. Why do you assume it's approximate?

A. Let me finish my answer, please. I appreciate it.

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MR. KRESS: Yeah.
BY MR. CALLAHAN:
Q. Okay.
A. You know, so remember that even if the float valve did pop up and a clog occurred later on which would allow it at some point to be jammed -- I mean, it would have to come downward at some point in order for her to open it.
So even if it did pop up at some point, in order for her to open it against the slider it needs to have gone down to a lower position, period, at the time of opening. And at the time of opening, in order for it to release pressurized contents, it has to be under pressure which means it has to be clogged, end of story, end of story.
So whether if it did pop up all the way at some point, and I mean all the way and it was fully closed and it engaged the interlock, then at some point it must have come down and then, and then clogged in the lower position. Now, do I think that's

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likely, no, and I do I think that my scenario is also consistent with her testimony, yes, because we don't know how far it popped up and you're saying I assume it popped up all the way, and I am saying you can't assume that. Nobody measured it. We don't know how far it popped up.
Q. You said that the valve could have popped up and then later went down?
A. What I'm saying is that if the valve had popped up at some point, the only way for this event to occur as described is for the valve to release downward below the slider but still be clogged in order to prevent the exhaust of pressure.
Q. How does that occur?
A. That's the only thing that's consistent. Say what?
Q. How does that occur?
A. Well --
Q. Describe the --
MR. KRESS: Dennis, please let him finish his answer.
THE WITNESS: Yeah. So, you know,

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as long as there is a clog present in the down position it will hold pressure. In order for her description of a pressurized event to occur, it had to have held pressure while she was able to turn the lid which can only occur in the down position. I don't know exactly what bit of food got where or when it got there, I don't have those answers, but I can tell you that in order for the pressurized event to occur and for her to be able to open it and for the pressurized contents to be released, it had to have been clogged in the down position.
Now, I've already say this, but my opinion is that most likely it was in the down position the entire time and her recollection of how far it popped up just means it didn't pop up all the way. That's still my opinion, but it could have happened in another way as long as a clog is present at the time that she is turning the lid and the float valve is in the down position.
Q. You testified your opinion, what -- you testified to another hypothetical here, that

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the float valve could have popped up and then fallen down and then clogged in the down position, isn't that what you just said?
A. No, that was your hypothetical. You said give me a hypothetical where this can happen and that was the hypothetical I gave you. My opinion is still the same as it's been.
Q. Can I ask my question? I'm trying to get my question out.
A. Okay. Well, I thought I answered your question, but go ahead.
Q. No, you did not.
If the float valve pops up under pressure, right, and that's the only way it would pop up; correct?
A. So you're starting your hypothetical. Please continue.
Q. If the float valve pops up, how does the float valve drop down again until the press -- before the pressure is released?
A. It will not drop down before the pressure is released below about 1/2 to 1 psi.

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Q. Okay. So if she sees the float valve pop up and we assume it popped up fully, your hypo -- the unit cannot clog; correct?
A. The unit cannot clog at that point. If the pressure is released say to 1/2 to 1 psi and the float valve popped down, but it's still -- there is still a clog present, meaning there is still food, the food could clog the float valve, if you have any type of trapped pressure inside the food itself it can be released and the pressure can go back up slightly, not to full operating pressure, but it will come back a little bit, then you can still be clogged and have a low pressure event which is what I think this is. In that hypothetical making the assumptions that you're forcing me to make, yes.
Q. So it's your opinion that the float valve can drop and then the pressure could rise up to 2 psi after that?
A. So it is my opinion that in your hypothetical if the float valve drops and is clogged at the moment of dropping and there is pressure -- and the food itself has

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trapped vapor, which can occur. I'm not saying it has to occur, in fact I don't think it is very likely, but you -- you know, Exponent has done a lot of work that has demonstrated you can have pressure trapped in the food, then that pressure can be released into the vapor space and increase the vapor space pressure to a higher than the value of the 1/2 to 1. Now, exactly what it is, you know, I can't tell you. I didn't measure that.
But I'm just telling you that in your hypothetical, which I believe is not a very likely hypothetical, you can still get the pressure to rise after it drops, but I think that we're talking about sort of an extremely unlikely hypothetical.
Q. Well, not that unlikely. She says that's what happened?
A. That's not what she said what happened. That's your assumption of her -- of the interpretation of her words.
Q. It's your opinion that the float valve should have been protected by a screen or

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some sort of anti-block shield?
A. Yeah, or a baffle, yes.
Q. And would that have prevented the incident?
A. I believe it would, yes.
Q. Can clogging still occur with a baffle in place?
A. It's my opinion -- well, I mean anything is possible, but it's my opinion that the likelihood of clogging would be much, much lower. It would heavily mitigate this. You could never guarantee it of course 100 percent, but you could definitely mitigate the risk.
Q. And you can't quantify that mitigation, can you?
A. I cannot, just like -- just like I've said many times before, but I'll be happy to say it again.
Q. And if the unit could clog with a protective screen in place, is it still defective?
A. I think if the effort had been made and demonstrated that the addition of that screen

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mitigates the likelihood of a clog, then I think you've done your job. And Instant Pot has used screens over the float, over the float valve, so we know they think it's safe, right. They've sold products with that and other companies have sold the full baffles which I think are even better.
Q. I asked you it before, but I'm going to ask you again here. You don't recall writing a report stating that another Instant Pot is defective because it lacks this float valve protector; correct?
MR. KRESS: Objection; asked and answered.
THE WITNESS: Yeah, that is still -- that is still true. That's still true, yes.
BY MR. CALLAHAN:
Q. Well, would you agree that you have to examine every incident to determine the cause of the occurrence?
A. I have no idea what that question is. About every incident that ever occurred ever? I don't know. What are you talking about?

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Q. No, no, no. I'm sorry. I'll try to restate a better question.

It's not your opinion that every incident involving an Instant Pot is caused by a lack of a valve protector; correct?

A. No. In fact, I've had Instant Pot cases where the lid interlock was not functioning adequately. You could easily turn it by hand.

Q. Okay. You'd agree that each incident is different; right?

A. I would say that each incident will have its own uniqueness, but a lot of them have a lot of overlap.

Q. All right. Well, one thing you said in this case was you had to look at the description of the incident to figure out what happened; right? That's a key part of your case?

A. That's true.

Q. In your report you suggest that there was prior testing that demonstrates that the clogging of the float valve was possible; right?

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A. Yeah. I mean, we've clogged float valves for other cases, not for this, just, you know, as part of the testing we did, but yeah, I know it can happen.

Q. Okay. You didn't do it in the Durham case?

A. I did not do it specifically for this case, that is correct.

Q. Do you recall the units you did test to demonstrate?

A. No, I don't recall even the manufacturer on those.

Q. And I called it a test. It's really a demonstration that it's possible; right?

A. I mean, it is. It is a test, but it is a demonstration.

Q. Okay. And do you recall exactly how you made that demonstration? What did you do?

A. You know, we've done it multiple times, but the one that comes to mind I think we used potatoes. I think that was the food that we used, but I know we've done it more than once, but the one that I recall specifically I think it was potatoes.

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Q. When did you do that test with the potatoes?

A. Oh, I don't know. It was years ago.

Q. You don't recall the model?

A. Nope.

Q. You've used the word "foreseeable." What does that mean?

A. To me that means that the designer, distributor, manufacturer, whoever is in that chain would foresee that an operator would perform a function in a certain way.

Q. You used foresee to define foreseeability. Can you give me a better definition?

A. Yeah. It means the, that that person would -- should anticipate that it would be a potential operation that a user would perform.

Q. Is anything that's possible also foreseeable?

A. I guess that's -- I guess you can never answer 100 percent on that, but, you know, for example, there are design features in this like, for example, the slider which is

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meant to prevent someone from opening it under pressure, right. That's a foreseeable misuse, right? They only had that slider because they foresee that a user will not -- will do something that's contrary to the instruction, and that's a good example of what is foreseeable. And I think that a lot of these pressure cookers have very good descriptions of what foods not to cook, what foods to be concerned with, and clearly because they see the potential for clogging. So, yeah, that's how I would say foreseeable for this.

Q. Is it your opinion that it's a design feature -- well, strike that. Is it your opinion that a warning in the instruction manual indicates that there is a foreseeable misuse possible?

A. I suppose so. I mean, a warning is sort of like that last ditch, that last ditch risk mitigation device that you can use, but yeah, I can't -- I can't see any other reason to put the warning on there.

Q. So in your world, in your opinion the

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product shouldn't have warnings, it all should be designed in a way that warnings are unnecessary?
A. No. In my world you'd only use warnings when design features cannot be implemented. If you'd like to have warnings in addition to design features, that's totally fine with me.
Q. The testing you did with the potato or the demonstration you did with the potato, is your opinion based on that?
A. I mean, that's just one of the experiences that I had that tells me that you can achieve clogging, but the physics also tells me that you can achieve clogging without any testing.
Q. So if the testing didn't exist, would you still be able to support your opinion?
A. Yeah. The physics clearly dictates that clogging is possible.
Q. All right. Let's -- the test you did, can you describe it?
A. No, I don't recall the details of it. I believe we were using that as our food product and we achieved a clog, but I

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couldn't tell you exactly how the clog occurred or how long it took or anything like that.
Q. Didn't you stuff a potato into the valve to clog it?
A. We did testing where we, where we presented the food. I don't know if we stuffed it into the valve. I don't think we did that, but we did do testing where we presented the food on the outside of it. Yeah, that was some of the testing.
Q. You manually clogged the valve; right?
A. We have done that, yeah. Oh, yeah. Yeah, I think we even manually clogged it with other things, too, like maybe like leafy vegetable stuff, too, as well.
Q. Is that foreseeable?
A. That someone would manually clog it?
Q. Yes.
A. No, I don't think that they would foresee someone doing that.
Q. Okay. So the purpose of this demonstration was to demonstrate that a clog was possible?

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A. On that demonstration, yes.
Q. All right. Is there any other demonstration you remember?
A. I don't know. We've done so many of those I couldn't tell you.
Q. You can't remember any other one?
A. Well, there is a leafy vegetable one. I think that was another one, too. I'm sure there have been others, but those are the ones that come to mind.
Q. And every one of them was a manual clogging of the valve to clog it; correct?
A. For the demonstrations of clogging, they were manually applied.
Q. I mean, that result didn't really surprise you, did it?
A. I guess not, because if you can present food in any form up to the valve then you would expect a potential for clogging. So, yeah, of course, I would expect that.
Q. Well, my point is if you stuffed the valve with the potato, it would limit the ability of vapor to pass through that orifice; correct?

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A. Yeah, but we didn't always stuff. Sometimes you could just put the food around it and have -- and have it clog that way. You didn't have to shove it inside the cylinder.
Q. You don't remember the models you used?
A. Nope.
Q. Is the shape of the valve important for your demonstration, for your testing?
A. Not really. None of these valves are designed to be clog proof. I don't think you can design a valve to be clog proof. That's why Instant Pot and others have used shields to protect the valves.
MR. CALLAHAN: This is going to be Exhibit 20. It's Image 4992 is the name of the file.
(Exhibit Rondinone-20 was marked for identification.)
BY MR. CALLAHAN:
Q. Do you know what that is in the picture?
A. That looks like a float valve.
Q. Do you know from what product?
A. No, I can't identify it by sight.

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Q. Do you know if it relates to -- is this the valve you tested with the demonstration?
A. I don't know.
Q. The food clogging demonstration?
A. I don't know.
MR. KRESS: Dennis, where is that from just for my benefit?
MR. CALLAHAN: I'm going to have to get back to you on that. I forget which picture is which.
MR. KRESS: Is this from this case?
MR. CALLAHAN: No.
MR. KRESS: Are we going to stay in the bounds of this case or are we doing a comprehensive Instant Pot deposition today?
MR. CALLAHAN: I'm trying to ask him if he can recognize the valve he tested in a prior case. You haven't provided the test. I'm presenting him with some valves that may or may not be the valve he tested.
MR. KRESS: I just don't want to get into a guessing game or a quiz. I want to -- he can give his testimony related to

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his opinions in this case, but if we're doing a comprehensive Instant Pot consolidation, that's something different entirely.
MR. CALLAHAN: I, I don't even know how to answer that. I don't think that's what I'm doing.
MR. KRESS: Okay.
MR. CALLAHAN: He said he tested another model product. I'm presenting him with the valves from other models to see if he could recognize them.
MR. KRESS: And have I been provided those pictures? I mean, I need some proper identification on what this is. It's sounding like a guessing game at this point.
MR. CALLAHAN: Well, I think the answer is he couldn't recognize the other picture. I'm just going to pull another one and see if he can recognize this one.
MR. KRESS: I'm going to object to relevance.
MR. CALLAHAN: Okay.
MR. KRESS: And lack of foundation. I don't even know what this is.

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This might not even be an Instant Pot for all I know.
MR. CALLAHAN: I'll guarantee you it's not. He said he never tested an Instant Pot in his demonstration. He tested other models.
MR. KRESS: So how is that relevant to what we're talking about right now?
MR. CALLAHAN: Because he is justifying his opinion based on his test of another model.
MR. KRESS: Based on his collective experience, but again this is becoming a quiz game.
MR. CALLAHAN: I'm entitled to explore that.
MR. KRESS: You're entitled to explore it within, within proper notice of what you're producing here. I mean, if you want to give him a representation, hey, did you test this model of pressure cooker, fine, but I'm not going to continue with a guessing game.

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MR. CALLAHAN: I'm asking if he recognizes the valves from the other products.
MR. KRESS: All right. Keep going. I'll make my objections as necessary.
MR. CALLAHAN: This is Exhibit 21. It's Photo P1120134.
(Exhibit Rondinone-21 was marked for identification.)
BY MR. CALLAHAN:
Q. Can you recognize this, sir?
MR. KRESS: Object to relevance. Go ahead.
THE WITNESS: I mean, it looks -- it looks like it's potentially a float valve.
BY MR. CALLAHAN:
Q. Do you know what, from what product?
A. Nope.
Q. Not from the Durham product, though, right?
A. Okay. Are you seriously asking me if this is taken from the subject that we've looked at like four photos from that looks completely different? Is that -- is that

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your actual question?
Q. I'm just trying to address Mr. Kress's -- I agree. That's not the Durham float valve.
A. That's not what you -- that's not how you asked, but the answer is of course it's not the Durham float valve. It looks nothing like it.
Q. Okay.
A. Right, but it does -- it is -- it does appear to have a cylinder. It does appear to have a seal and it does appear that it would function for internal pressure, which means it would be functionally identical, but I can't tell you where it came from. I don't even know the manufacturer of that one.
Q. Okay. Can you tell me -- can you tell me if this is in the model product you used for your potato demonstration?
A. I don't know.
Q. Okay. I showed you this picture before. This is Float Valve B. I think it was marked. Oh, it was marked as No. 17.
What was Ms. Durham cooking?

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A. You know, you'd have to read her deposition to get the exact contents, but I believe it was chicken and vegetables and water and maybe spices.
Q. No potatoes though; right?
A. Not that I'm aware of.
Q. All right. How deep was the contents in the bottom of the pot?
A. I don't think she measured it, but I think she said it was a few inches or something to that effect.
Q. Okay. How far from the top of the contents to the float valve shown in the exhibit?
A. I don't think that was ever measured, but, you know, we're probably talking about based on her description four to six inches maybe. You know, it's hard to say because she didn't give a number, not a specific number.
Q. Well, she said the contents were one or two inches deep; right?
A. Yeah, but she didn't measure it, and she said also said that a 12 can -- a 12-ounce

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bottle of Coke is six ounces, so she could be off by a factor of two easily.
Q. Do we have better evidence of how deep it was?
A. No, nobody took measurements as far as I know.
Q. All right. So are you going to accept her testimony in this or not?
A. You know, I'm going to answer this the same way I answered the last whatever, 10 or 20 questions where you asked about her comments being approximate. All of her comments are approximate. My opinion is her testimony is her best recollection, but it has to be taken as approximate, end of story.
Q. Okay. So the surface of the soup is what, five to six inches away from the float valve approximately?
A. Possibly, but she -- well, I mean, we don't know. We don't know. Nobody measured that. Maybe it was three inches, maybe it was six inches, maybe it was two inches. She didn't measure it. We don't know what the measurement is.

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Q. When you were examining the pot, did you measure the width of the float valve, the rod in the float valve?
A. I don't recall if we measured that or not. We possibly did. It's like a quarter inch give or take, but I don't, I don't recall the measurements if we did it.
Q. Do you know how much space there is between the float valve and the orifice it passes through?
A. That's also in the neighborhood of a quarter inch give or take, you know, ballpark. No, I don't recall the measurement.
Q. The gap between the shaft and the orifice is how far?
A. I think that's a ballpark quarter inch, but like I said, I'd have to -- I can look through my -- if you'd like, I can look through my photos if you'd like. Is this a really important that you need a closer number if I got it? It sounds like it is. Why don't you give me a few moments and I'll sit here silently and look through my photos.

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Q. Okay.
A. Or stand here I should say.
(Pause.)
MR. KRESS: While we're waiting, so just to revisit this, Dennis, we're probably getting close to four hours, correct?
MR. CALLAHAN: Yeah, that's probably fair.
MR. KRESS: All right. Are you going to be done before four hours?
MR. CALLAHAN: No.
THE WITNESS: Okay. I think I'm ready to answer the question.
BY MR. CALLAHAN:
Q. Okay.
A. I would keep my ballpark at about a quarter inch based upon photographs that show measurements of other things, but we did not specifically photograph the measurement of that gap.
Q. Okay. This is what I was trying to ask. I'm just going to show you a picture. I'm trying to -- I'm trying to ask you the

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difference between the space between the float valve and the size, the size of the orifice. Does that make sense from the drawing?
A. You mean what the annular size is, the annular gap?
Q. Yeah.
A. Between the cylinder of the float valve and the outer assembly of the float valve?
Q. Correct.
A. Oh, yeah, we definitely didn't measure that, but that's got to be like a millimeter or something. That's pretty small.
Q. Okay. That's what I was asking. That's why I knew it was not a quarter inch.
A. I see. You're right. That is much, much smaller than a quarter inch.
Q. All right. Did you measure the bypass hole in the valve?
A. I don't think we measured this one, but that's probably on the order of a few millimeters. That's fairly small.
Q. In the units, the units you used for your demonstration, those other models, do

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you know if they had a bypass hole?
A. I don't know.
Q. Do you know if it had any -- do you know the size of those shafts or the size of the orifice the shafts pass through?
A. I don't recall.
Q. Did you measure the cap?
A. I don't think we put a ruler on the cap for this particular one.
Q. All right. The product, the food particles that in your opinion can cause this clogging, how big are they?
A. It depends on how many you have. The bigger the particles the fewer you need. I wouldn't put a number on it.
Q. You can't give me an estimate?
A. No.
Q. How do the particles get from the surface of the liquid to the valve?
A. Well, if the water is actively boiling then it can be entrained in the bubbling up. It could be entrained in the vapor moving through and around the vapor space. I guess conceivably you could shake the unit. I

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think more likely it's just from the bubbling.
Q. So we're not talking big pieces of food; right?
A. Well, I mean, not like inch across pieces. Yeah, I mean, I guess you could shake it up and get those pieces up there, but I'm thinking much smaller than that.
Q. You're thinking particles that could be carried in steam?
A. Or, no, they could be blown up by the bubbling. If you've ever boiled something on a stovetop without a cover, you can -- you can -- you can see that the contents can be thrown like a foot. I've seen that at least. So, yeah, I'm talking about the bubbling, the bubbling effect where you get a bursting of the vapor from the liquid to the vapor phase.
Q. Again, we're talking small particles?
A. I wouldn't put a number on it. I mean, I guess I did. I don't think we're talking an inch across, but no, I wouldn't put a number on it.
Q. So all you can tell me is less than an

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inch?
A. Yep.
Q. In the photograph that's shown as Float Valve B, this is the protector over the pressure relief valve; correct?
A. That's correct.
Q. You'd agree the pressure relief valve is always open even when the unit is pressurized; right?
A. I mean, it depends on how you set the little weight thing at the top.
Q. Okay. How big are the gaps in that protective cage over the relief valve?
A. Oh, I think they're just on the order of like -- I don't know. I don't think we measured that in this case, but they're just on the order of a millimeter or two. They're pretty small.
Q. Okay.
A. But they're pretty long. They're like half an inch long or something.
Q. The particles of food that you said could be thrust up into the valve, are they bigger or smaller than the orifice on the

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protective cage?
A. I don't have a number for that.
Q. May be bigger, may be smaller?
A. Yeah.
Q. You don't know?
A. Yeah, I don't have a number.
Q. You've test -- you've suggested that the manufacturer should, if the manufacturer wants to disprove your theory it should conduct a test to demonstrate this isn't possible under real world conditions. Do you remember that testimony?
A. No. I believe what I said was that if you want to statistically say that something can't happen or is not likely to happen, then you need to do a statistical analysis. If you want to say that something is possible, then you don't need to do the statistical analysis because you're not relying on statistics.
Q. Okay. How would you do a statistical analysis?
A. Well, I mean if you wanted to demonstrate the likelihood or the possibility

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of clogging and you intended on selling tens or hundreds or thousands of units, then you better have a very, very large statistical test base in order to ensure that the risk doesn't need to be mitigated, but I wouldn't put a number on it.
I would have to know exactly how many units they plan to sell and what they, you know, what they recommend cooking in it and all the different levels, and then you'd have to build out a perimetric study for it. I mean, you'd just have to -- you'd have to do the work to set up the study.
Q. Can you describe that study? That's my question.
A. Well, no, because I haven't been hired to build that study, but I mean you'd have to look at all the potential foods. You'd have to look at the potential fill heights. You'd have to look at the potential cooking conditions. You know, you'd have to look at whether or not it's been fully cleaned from the previous round. You'd have to look at all of that. Then you'd have to look at how

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many units you intend to sell and you have to line all of that up and then build a matrix, a test matrix off of that, right. It's a lot of work. You don't just sit down and say, well, we'll test ten and we're done. That's not how you do it.
Q. I'm asking you how you do it. That's my question, very simple.
A. I've given you the answer. I've not been hired to build that study and to build that study is not something I can answer in one minute in a deposition. I told you the things, the parameters that you look at, and then after laying those out you would determine how to approach the study.
Q. Would you be capable of doing such a study?
A. Yeah, if I was hired to do so.
Q. Would -- in your hypothetical clogging scenario, would there be any physical evidence left to indicate that the valve had clogged after the event was over?
A. Not if it had been cleaned, no.
Q. Define clean.

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A. I mean, even, even just the introduction of pressurized water from a tap would probably be enough to clear it.
Q. What was the testimony about the unit being cleaned, do you remember?
A. I don't know that anybody knows whether or not or how it was cleaned, but clearly it has been cleaned to some extent. I mean, look at these pictures. That's a clean metallic surface. I don't think -- I've seen them where they're not clean and they're gross. You know, the mold is growing on all the surfaces pretty much. That's not what we have here. This has been cleaned.
Q. So I guess to clarify, you -- there is no physical evidence that you found indicating residue from a, from a valve clog?
A. That's true.
Q. Can you tell me if -- well, did you look inside the relief valve?
A. I think only, only from outside, but you can see it's been cleaned. I mean, it's clear that it's been cleaned.
Q. Again, the relief valve behind this

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cage, did --
A. Oh, I'm sorry, I misinterpreted. I thought you meant float valve. I don't recall if we took off the cage or not on this one. I just don't recall.
Q. Is there any testimony that the user or someone else took the cage off and cleaned underneath the cage?
A. I don't know if they did or not.
Q. Did -- I think you testified you did not remove the float valve during your examination?
A. Yeah, I don't recall the float valve being removed.
Q. So you didn't take off the cap on the end of the float valve?
A. I just, I don't -- I don't recall doing that at all for this case.
Q. Why not?
A. I didn't think that it was necessary. It's clear that it's been cleaned and I didn't see that it was necessary to take apart.
Q. Was there any testimony that someone

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cleaned the inside of that float valve, the center bore?
A. That I don't know.
Q. Did you check to see if there was any residue inside that center bore?
A. Only looking through the holes from the outside. I don't think we look -- we took it apart to look on the inside.
Q. All right. And this, this view that's up on the screen, Float Valve B, looks pretty clean, those holes; correct?
A. It does look like it's been cleaned, that's correct.
Q. You don't see any residue at all through those holes; right?
A. I don't, no.
Q. All right. But there is no testimony anybody cleaned inside that float valve; right?
A. I don't know what the testimony is regarding the cleaning.
Q. Okay. Would you expect that a user after an incident would take the valve apart, clean the inside and put it back together?

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A. That I don't know. I don't know. I would -- I mean, it's clear they cleaned it to some extent. I don't know to what extent they did so.
Q. All right. I thought, I thought you testified earlier it was not foreseeable that a user would pull the float valve on a regular basis?
A. No. I just said that I would probably do it to clean it, but I couldn't speak to everybody. I couldn't say that everybody would do that or even think of doing it.
Q. So you can't tell me if there is any evidence of food debris inside that cylinder, the float valve cylinder?
A. No, but the fact that it's been cleaned at all means that if -- whether you find -- if you don't find residue, it just means you don't find residue. It doesn't mean there wasn't clogging. And remember the clogging doesn't have to go all the way in the cylinder either. It can be along the outside as well. So I'm just saying that it clearly has been cleaned to some extent, and the fact

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that there is no residue really means that it's been cleaned. So I don't know how else to answer that.
Q. Do you have an opinion as to where the clogging occurred?
A. No, I have no specifics on the clogging.
Q. Is it your opinion that this food debris completely sealed the valve or was it like partially blocked?
A. It had to -- it had to have been at least -- it had to have been a sufficient seal to build in my opinion to operating pressure. Now, whether it was a perfect seal I couldn't tell you.
Q. So what pressure did it achieve, do you know?
A. I did not measure that pressure. I don't think anybody did.
Q. And you don't have an opinion about it?
A. I mean, if I had to ballpark it I think it's about a dozen psi, but on the day of the event I have no idea.
Q. And you have an opinion -- do you have an opinion about the pressure when she opened

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the unit in your hypothetical?
A. Yeah, I've already answered that. I think it's going to be in the neighborhood of 2 psi. I don't think it's going to be much higher than that based upon her description. It might be a tiny bit lower. I don't think it's below 1 psi.
Q. What's your scientific basis for concluding 2 psi?
A. Because we've opened a number of electronic pressure cookers that are about this size and just very similar to this geometry, and at 4 psi that's where you can open it, but you generally get a quite forceful expulsion of contents.
At about 1 and a half psi the expulsion of contents has dropped to very little, so 2 psi in my opinion is probably as high as it could have been to get just a small expulsion of contents and also to make it easier to open, because at 4 psi it can be opened by hand but it takes quite a bit more force.
Q. How much force is required to open it at

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2 psi?
A. I don't have a number for that, but it's much easier than 4 psi.
Q. You can't give me an estimate?
A. No, because we just did those by hand. We were doing hand openings which means we can't use a tool. You can't measure it.
Q. Well, you could have used a tool, you just chose not to.
A. Well, no. If you use a tool then you're not demonstrating it can be opened by hand. That defeats the purpose of the test.
Q. You could quantify measurement. You could do two tests; right?
A. Well, I guess you could. I could do twice the amount of work, but the purpose of the test was to demonstrate that it could be opened by hand without a tool.
Q. But because you didn't measure it you're only estimating?
A. That is always true. That is absolutely right.
Q. Do you have an opinion as to how long or how fast the pressure will dissipate

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following your hypothetical blockage?
A. How do you mean, like at the end of the cooking cycle or --
Q. Yes. I'm sorry, at the end of the cook cycle.
A. Oh, that would depend on the thermal mass of the food. You know, if the thing is all the way full I think these things take an hour to naturally relieve the pressure. If it's just a tiny bit full it could be ten minutes give or take. It really just depends on what the thermal mass of the food is.
Q. You're referring to under normal cooking, right. I'm asking you specifically in your scenario with the valve blocked, how long would it take?
A. Well, it would be the same because under normal cooking the valve is closed which is the same function as having it clogged, right. Both are holding pressure.
Q. And I guess that assumes it's a fully -- it's fully clogged?
A. Well, it's clogged sufficient to hold pressure. It could be that if it has a slow

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leak then it would relieve pressure sooner and it would just, it would drop pressure. You know, maybe instead of taking an hour it might only take 20, 30 minutes. Instead of taking 10, 15 minutes, it might only take five, but all of those are assumptions that we don't have an answer to. Those are -- those are just assumptions.

Q. Turning back to your report which was Exhibit 1, in the fourth paragraph of your conclusions you say, "The injury and event description are consistent with contents being forcefully sprayed out of the pressure cooker under pressure and are not consistent with the contents simply being spilled under gravity."

Can you explain that statement, please?

A. Sure. When you take into account the event description and the injuries together, meaning the whole lump, what you are presented with is a description that the contents were released under pressure. It's kind of sprayed as a hor -- it's explained as

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like a horizontal spray I think and the ejection or popping off of the lid, those are all things that describe a unit that's under pressure.

And all of those things together, the descriptions of the injury, the descriptions of the event, how the contents are described as leaving the cooker, those are all consistent with a cooker under pressure.

And I've already just told you that we're talking about low pressure rather than something just spilling out due to gravity, right, because you can't get the horizontal spray due to, you know, gravity. You can't get the lid popping off due to gravity. Those are -- that's why when you take it as a whole, what we're talking about is a pressurized event and not a gravity event.

Q. Do you remember what Ms. Durham said about the lid opening?

A. I'm sorry, what? About when her opening of the lid you mean?

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Q. Yeah.

A. Yeah, I think she said she was able to turn it open and then after initiating the turn the lid popped and ejected the contents, but not much in terms of contents.

Q. Did she measure anything in respect to the lid open?

A. Oh, no, I don't think she did.

Q. Okay. So her -- that's just her impression of what happened; right?

A. You are absolutely right. Right, she has no idea what force she applied. She has no idea how much of the contents came out. All we can get from her testimony like I said before are approximations, right.

She does describe the lid being forcefully popped off, but that's only approximation. She's not saying how far, which way, what was the pressure, none of that, how long did it take, none of that. It's just an approximation.

Same thing for the ejection of the contents. You know, she didn't say how much came out. She did say that no food came out,

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only liquid, so you can presume that we're not talking about a huge amount.

Also she didn't really describe a lot being on the counter or the floor, only that it got on her body and a little bit I think on her son, but yeah, those are all approximations. That's exactly how you have to read it. You have to read it as approximation.

Q. Did she testify she saw liquid coming out of the, out of the unit?

A. I don't know if she said she saw the liquid, but she described it as only being liquid and not food. I don't know what she saw.

Q. Well, you testified a few minutes ago that one of the indicators that this was a pressure release was the contents were sprayed horizontally?

A. Yeah, I think that was from her son, the other witness.

Q. Can you explain how her son -- well, where was her son standing at the time of the incident?

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A. You know, I think there were two different descriptions. I think he said he was between his mom and the pressure cooker and I think she said he was hugging her, so he would be adjacent to her, but not necessarily between the pressure cooker and her. So I don't -- I don't know where he was exactly. I couldn't give you that.
Q. But he was not sprayed with the contents, was he?
A. I think some got onto his clothing, but I don't think he was burned.
Q. Where on his clothing?
A. I don't recall. I think she described it as having got on his clothing and so she was concerned about him, but I don't think she ever -- I don't recall if she said specifically how much and where on the clothing it was.
Q. And Ms. Durham's injuries were where?
A. I believe it was the thigh, so the upper leg and then the foot, maybe the lower leg, maybe the shin. I, I think it's basically leg, below the waist I think.

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Q. All below counter height; correct?
A. Um, or close to it. Yeah, I think that she said the counter height was about waist height, so yeah, I would say below that.
Q. Okay. Is it possible that the contents spilled out, were ejected out onto the counter and then ran off the counter onto her legs?
A. I guess that's possible. You know, yes, I guess, as long as they're forcefully ejected under pressure perhaps. I mean, it still has to reach her legs so there has got to be some kind of side velocity, but I guess that's possible.
Q. You can't exclude that certainly; right?
A. That's true.
Q. How would her injuries be different if she spilled the contents on the counter and the hot contents ran off the counter onto her leg and her foot?
A. Well, if we make the assumption that none of the description of a pressurized event applies and then we make the assumption that her body must basically be adjacent to

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the counter, you know, almost basically touching because we're not going to have a high side velocity if we're just doing a gravity release and a spill, but you'd have to be close. If you make those assumptions then she could be burned below the waist, you know, in these places.
Q. In a similar pattern to how she was in fact burned?
A. Um, yeah, they could be similar.
Q. And there is no scientific way to tell us whether the contents, if they were on the counter because of an ejection or because of a spill, if they ran off the end of the counter on her leg and her foot, there is no scientific way to tell what happened to the contents before; right?
A. Well, no. I mean, so if the contents are ejected under pressure their sideway velocity would be much, much higher and she wouldn't have to be basically with her, with her waist up to the counter. She could be many inches away and still get hit, whereas if we're assuming a gravity only then we're

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talking, then I think she has to be closer I think because your sideways velocity is going to be lower. So those would be, that would be the only difference physically in terms of how, you know, what you would expect and the physics.
Q. Do you know how close she was to the counter?
A. No, I don't think that was measured.
Q. All right. So you only have an approximation?
A. I don't even know if we have an approximation. I don't even know if she described it in any way. I don't recall. I don't recall her describing it.
Q. Okay. So that's an unknown, do you agree?
A. Oh, I agree.
Q. Do you know where the pot was located on the counter?
A. I don't think that was measured either.
Q. So that's an unknown?
A. Its exact position is certainly unknown.
Q. And we talked a little bit about

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Newtonian physics at the beginning of the deposition. If the contents are sprayed out under pressure, 2 psi, they're going to expend outward and then gravity is going to start pulling them down; correct?

A. That is absolutely correct.

Q. And you can't tell me if there is enough sideways velocity to clear the counter; correct?

A. When we release pressurized contents at about 2 psi, you could clearly clear a counter even if it was, you know, six to eight inches in, but it would start falling. So it wouldn't be -- it wouldn't still be at, you know, initial height by the time it got -- it cleared the counter. It would then start being at counter height or just above counter height.

My experience on that is that under the lower pressure events, the sideways distance might be a foot or two or three, but it's very small in terms of feet. It's the higher pressure events that will get you eight, ten feet away. I don't think that's

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what we have here.

Q. And your 2 psi is just an estimate, it could be less than that; right?

A. It could be a little less, yeah, I agree.

Q. Is there any physical evidence that the lid separated from the pot and forcefully sprayed or are you relying on her description?

A. I think her description is the only thing one way or the other.

Q. There is no damage to the pot that would corroborate that; correct?

A. Correct. Yes, that's correct. That's correct.

Q. If Ms. Durham opened the pot and spilled the contents on the counter, you would -- you would not have an opinion that the product was defective, would you?

A. Yeah. So if we're assuming that she opened it when there was essentially no pressure left and then spilled it on herself then I would say yeah, then that doesn't -- then the pressurized release opinions don't

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really apply.

Q. Okay. And that would be true if it was filled high and she just tipped it when she was taking the lid off or moving it or something; right?

A. That's true.

Q. And you don't know how much liquid was ejected, quantity?

A. No, I don't think anybody measured the quantity. I think it was just described as I already described it, but I don't think anybody measured it.

Q. But it also wouldn't be inconsistent with the amount of liquid in the spill either; right?

A. Um, if the amount of liquid was small then that would not be consistent with dumping the whole contents, but since nobody measured it, I guess nobody measured it, right. I don't know the value.

Q. Well, I'm not asking you -- I mean, if you dump the whole contents it's different than if you jostled it and a little -- and a cup came out or something, right? You can't,

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you can't by the quantity distinguish a spill from an ejection, correct?

A. Oh. Oh, so -- oh, well, no. So, okay, I think I misunderstood your previous question. So you're now suggesting there is a hypothetical where you can shake this in some magical way and have contents come out, hit the counter, roll down the counter and then reach your body? Is that what you're suggesting in your hypothetical?

Q. I'm asking --

A. Am I understanding that right?

Q. -- based on the amount of liquid that was out of the pot, can you distinguish between a spill or a ejection?

A. Well, if the amount of liquid out of the pot is very small or as described, as she described the event, then if it were some -- somehow a gravity-based spill, non-pressurized, I don't see how it could get to her body and cause these injuries.

I think in order for a gravity based-spill to do that, you have to lose all the contents. It has to be a full, a full

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tip. It can't be -- it can't be just a little shake like you're sort of implying. I don't -- I don't see how that could be realistic.

Q. You're completely discounting the possibility of a partial spill?

A. No, no. You're completely -- your hypothetical doesn't provide any realistic fashion in which a small quantity spill driven by gravity would reach her body even if she was close to the counter. There is no -- there is no -- there is nothing in your hypothetical that implies that that could be in any way realistic.

Q. Are her injuries consistent with the pot being dropped?

A. If the contents are disgorged from the pot before it, you know, reaches counter height then it could be consistent, but if they don't get disgorged until it's already fallen past the counter height, then probably not because I don't know how it could get on her thigh at that point. So I think that we have to assume that the contents are leaving

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while it's still at counter height approximately.

Q. If the unit was sitting on the counter and the contents were ejected under pressure, would you expect to see burns above the height of the counter?

A. Not necessarily. If the pressure is low like we've already discussed and there are, you know, there is a foot or two between her and the pressure cooker, then after being ejected horizontally it will start to fall and so you could get injuries lower down.

So they don't have to be above the counter. If the pressure was a little higher and the contents came out horizontally with a very high velocity, then I think you would at least expect contact with her body, you know, at waist level or above. Maybe not burns, but certainly contact, but I think if the pressure is low you can get contact below the waist.

Q. So you exclude the possibility of a gravity spill or a spill based on her testimony; correct?

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A. That's true.

Q. There is no scientific basis for doing that. You're just accepting what she says; right?

A. Well, no. I mean, in the hypotheticals you gave me for a gravity-based spill, only a gravity-based spill which would disgorge the whole contents I think could be consistent with the injuries alone if we ignore her testimony and just look at the injuries, but a partial like shaking and a little bit of burping out or shaking gravity and having a little spill out the top, I don't think that could lead to her injuries at all. So those two hypotheticals, only one of them would count.

Q. Okay. You'd agree that some volume of contents came out of the pot? That's a basis for your opinion; right?

A. Well, I think that has to be true in order for her to be injured. I think that is true.

Q. Okay. And you don't know the volume of the contents that came out; right?

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A. That's true.

Q. All right. Well let's call it X. Whatever it is, it's X.

A. Okay.

Q. Couldn't the same X amount of contents come out of a partial spill, however that might happen?

A. So if that X is large, like let's say it's all or nearly all of the contents, then I think a gravity-based spill could lead to the injuries that we see here, but if X is small meaning it's nowhere near the full contents, it's closer to what she described meaning just some liquid, no food, then what you're dealing with is a gravity spill that isn't large, meaning that you have to now somehow realistically describe how you can get a good sideways velocity off of a tiny or a small X value spill, which I don't think can be done realistically, and you certainly haven't provided any type of realism to that kind of hypothetical, and I don't see that you could. I just don't see it.

Q. So you're saying people that have

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burned, been burned with pots of boiling water only get burned by spilling the entire pot?

A. No. If the pot of boiling -- if the pot of boiling water is full, okay, up to the brim and you shake the pot, you can get the top half inch of water, three quarters, maybe a full inch of water coming out and you could be really badly burned.

But if your pot has say two, three, four inches, it's only half full and you shake it, the sloshing is not going to lead to a high amount of boiling water coming out. It's just not. I don't see how that hypothetical would lead to a high amount coming out.

And then the amount that comes out, it's mostly just going up and down. It will have almost no sideway velocity in that, in the hypothetical, and so it's really not going to reach you in any significant amount.

And that's why I'm saying that in these conditions with your hypothetical, it just doesn't make realistic sense. It just

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doesn't. I mean, you'd have to find a way to describe that in that way that it does, just I don't see it.

Q. You keep limiting my question to this shaking scenario. Where did that come from?

A. Well, why don't you -- why don't you actually fill out the hypothetical? You're suggesting a spill that's not the full contents, which means it doesn't tip over, right. If it tipped over all the way it would be a full content spill. So why don't you provide me with a complete hypothetical and I will do my best to address it.

Q. You don't think it's possible that a partial spill occurred. You don't think --

A. Why don't --

Q. It's totally inconceivable?

A. Why don't you give me a hypothetical in which you describe this partial spill and I will consider it. Because I've answered everything else the best I can, but if you give me a full hypothetical with this partial spill, so tell me exactly what happened and what I'm supposed to assume, then I will go

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ahead and address it, otherwise I can't answer it. It's just the hypothetical doesn't make any sense.

Q. I'm not asking you a hypothetical question. I'm asking you a very specific question. The question is, is it possible under any circumstance to have a partial spill of contents? Yes or no?

A. Under gravity. Okay. Well, let's start with the hypo -- so what you are asking me is a hypothetical.

Q. Yes or no? Is it possible?

A. You have to give me more information. I've already answered this many times. Why don't you give me more information and I'll be happy to address it, right. I mean, an alien could land on the roof tomorrow. Sure. Why not? It hasn't happened yet, but it could. I can't rule it out. I like aliens. They could show up in my backyard this afternoon, but you need to give me specifics, right. How full is it? What are the contents? What is the angle at which it tips? How does it stop tipping when it

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reached that angle? How fast does the angle change? Does it go all the way horizontal? Is it pointing towards her, to the side, away from her? Is she interacting with it in some way? I mean, you have -- without those pieces, how am I supposed to answer that?

What I am telling you is I can't conceive of a pot that's sitting on the counter, somehow gets jostled, no pressure, and a small amount of the contents leaves, hits the counter, move vertically off the counter -- horizontally off the counter and reach her. I just don't see that hypothetical making any sense at all, which is why if you want to give me a hypothetical that makes sense, please do so, but I just, I just don't see your hypothetical making any sense, and it is hypothetical. Clearly what you're asking me is a hypothetical.

Q. So you can't answer my question without all that specific information?

A. I've already answered that question and told you that I don't think it's realistic, and I've already said that many times over,

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and I said that if you want me to consider something specifically I would be happy to do so, but for some reason you don't want to give that to me, and that's okay. I understand. You don't want to. That's okay.

MR. CALLAHAN: Can we take a ten-minute break? I'll review my notes.

MR. KRESS: Sounds good.

THE WITNESS: Okay.

THE VIDEOGRAPHER: Off the record. The time is 6:18.

(Recess; 6:18 p.m.)

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(Resumed; 6:29 p.m.)

THE VIDEOGRAPHER: We're back on the record, 6:29.

BY MR. CALLAHAN:

Q. In your report, sir, you state that Instant Brands has used a protective screen to protect float valves in other products?

A. Yes.

Q. When did they do that?

A. You know, I don't recall the date of that, but I think it's a Duo, not the Duo

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Plus, and I think it's a number of years ago. I don't think that -- I don't recall the date, but I think it's more than a few years ago. You know, it's not current -- I don't know that it's current, but we bought it a number of years ago.

Q. You don't know why that change was made, do you?

A. No, I haven't seen any engineering change documents.

Q. And can you exclude the possibility that it was considered a design improvement?

A. I mean, I'd like -- if they're going to prove that through engineering, I'd like to see it. I don't see that, but I'd love to see them prove that.

Q. Have you considered that possibility?

A. No. Well, to me it looks like it's a cost saving measure, but like I said, if you have documentation or proof that they did an engineering analysis and proved that it's better, I'd love to see that.

Q. Why do you say it's a cost saving measure?

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A. Well, look at it. It's half the material. I don't think you'd save a lot though.

Q. Do you have any evidence it was a cost saving measure?

A. Nope, but you asked me what it looked like to me and that's what it looked like to me. Like I said, I'd love to see their engineering change order and their engineering documents behind the choice.

Q. Who made the change?

A. I don't know which entity in the stream made that decision, only that Instant Pot sold it.

Q. Is it your opinion that the product using the double screen is not susceptible to clogging?

A. I think the double screen mitigates the risk of clogging. Like I said, you can never be 100 percent, but I think it does mitigate the risk of clogging, right, because that's why they use it for the pressure relief valve.

Q. Have you ever examined an Instant Pot

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that used the double screen?

A. Well, you're looking at one. I don't remember which case this was for, which case we had with that model, so I don't recall which case that was.

Q. Are you aware of any incidents where it was demonstrated a pressure -- an Instant Pot pressure cooker with that double screen device clogged?

A. That I don't know.

Q. Turning to your demonstration, the potato demonstration we talked about earlier, do you have any photographs or videos of that demonstration?

A. I don't know.

Q. Do you have any photographs or videos of any demonstration demonstrating that clogging is potential?

A. I don't know.

Q. Do you have any notes relating to those demonstrations?

A. I don't know.

Q. Do you have any written protocols related to those demonstrations?

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A. I don't know.
Q. All you have is what's in your head?
A. Well, that's all that I definitely have. The others I don't know.
Q. You referenced in your report this demonstration; correct?
A. I think I referenced that I have experienced this type of clogging. If you'd like to read me the sentence I'd be happy to look at it.
Q. On Page 7 you say, "Prior testing experience by BEAR has shown certain foods are capable of clogging pressure cooker valves."
You referenced this prior testing; right?
A. Yeah.
Q. And you relied on it in your opinions; right?
A. As part of my experience, yeah.
Q. And to be complete, that sort of testing would have -- should have been produced; right?
A. No, as part --

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Q. If you're giving me the gist of it --
A. It's part of my experience and I think I can, I think I'm certainly able to reference my prior experiences as they relate to items pertinent to the case.
Q. In writing your report did you consider looking for any evidence, photos, notes, protocols related to this demonstration?
A. I don't think so. I don't recall.
Q. When was the last time you testified about this potato demonstration?
A. I don't know.
Q. Do you know what type of potatoes you used?
A. I don't recall.
Q. Do you know if they were cooked or uncooked?
A. I don't recall. I believe they were -- we might have done them both ways actually. I guess I don't recall.
Q. Do you know how big of pieces you used?
A. No.
Q. I asked you several times about quantifying the risk of a float valve clog

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under op -- under normal operating conditions, real world operating conditions, and you told me several times you cannot quantify that risk. My question is, is that risk just unknown to you or is it completely unknowable to anyone?
A. I think if someone were to perform a complete statistical study, which we also talked about at great length, then you could come up with a value for likelihood if you wanted to. I think you could.
Q. Is there some likelihood that you don't have to address that as design?
A. I think that if you can prove that the likelihood is close to zero and you believe that a design change is impractical, then you could just warn against it, but only under that circumstance.
I think that if a design change is practical and feasible and doesn't significantly change the design or the cost, meaning you have to redesign the whole product to do so, then I think it ought to be done especially if you don't know the

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statistics. I think it ought to be done, period. You shouldn't just ignore it because you think it might not happen.
Q. You said close to zero. What does close to zero mean?
A. I don't have a number for that. I, I cannot give you a number.
Q. But your opinion is if it's close to zero you don't have to design against it. What's that -- what does close to zero mean? If you're an engineer and you're presented with this problem, what does close to zero mean?
A. Yeah. So as an engineer I would expect the engineer who performed the work to present me with an analysis that demonstrates why they believe it is close to zero. I would need to review that work and evaluate the statistics, and then I could tell you whether or not it was close to zero. That's what I would need to do it. I cannot give you a number standing here today.
Q. I'm sharing my screen. It's a photo I think provided by defense to you. It is Set

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1_0974. Do you have -- can you see that, sir?
A. I can.
Q. Do you know what that is?
A. That looks like a disassembled float valve.
Q. Is it the float valve from the Durham pot?
A. I don't see any identification on here, but if it were represented to be from the Durham pot I wouldn't disagree.
Q. I will represent that it is. Do you see any signs -- well, let me ask it this way. You testified previously you have seen signs of food particles stuck on the inside of the Instant Pot after an incident; correct?
A. I -- no, I did not say Instant Pot. I said that I've seen pressure cookers which had not been cleaned after use and they were extremely disgusting, nothing like what this looks like. This one has clearly been cleaned.
Q. Okay. And is it your opinion this valve has been cleaned, this valve stem?

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A. To me it looks like it's been cleaned.
Q. You don't see any evidence of food debris on it?
A. Well, I mean I see some particles that may or may not be food. They may just be just discoloration of the cylinder, and if that were the case then that still means it just -- it got cleaned. That just means it didn't get, you know, perfectly cleaned.
Q. Looking at this valve stem, where was the clog? Can you tell me?
A. I can't tell you. I can't tell you exactly where the clog is. You've already asked that and I'm going to give you the same answer. I can't tell you exactly.
Q. Well, I've never shown you this valve stem, have I?
A. But the question is the exact same and the answer is the exact same. You can show me 20 pictures of the valve stem if you'd like.
Q. Can you tell me who removed the valve stem and cleaned it?
A. Well, first of all, you're assuming that

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somebody removed the valve stem and cleaned it. I'm just saying that it got cleaned. I'm not saying whether or not it was removed. It might have been removed. It might not.
Q. Well, how did someone clean it if it wasn't removed?
A. So why are you saying that it needed to be removed to be cleaned? Because what if the clog was only on the bottom portion that's accessible without having to remove it and you could easily clean it without removing it.
Q. Where would that clog be?
A. It would be in the section that would be visible from the underside of the lid.
Q. Would the clog not have to be in the orifice surrounding the valve stem?
A. It could be in or over. It doesn't have to be inside the cylinder, but it could be.
Q. Do you see any food particles or debris inside the silicon cap of the, of the valve?
A. I do not, but I don't see how you could even get food particles inside the cap when it's still attached. I'm not even sure how

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you would do that.
Q. Isn't this cylinder open to the bottom?
A. Not necessarily. I think there is a chamber that connects the side holes to the side holes. We would have to look at a photograph of the end to see if the chamber goes all the way to the bottom.
Q. Not --
A. I just don't recall on this one.
Q. Not necessarily. You've looked at the pot, haven't you, or not?
A. Like I said, I don't believe that we disassembled the float valve.
Q. This is where the clog you claim occurred; correct?
A. So I think that you're -- it seems like you're getting a little upset. The -- the answer is the clog could have been over the top of the orifice holes and around the annular openings. Right, it doesn't have to go in. That's one potential, or the clog could have gone into the hole but not far, maybe just into the hole and also over the top and around the annular opening, or the

clog could have gone all the way in and somebody has cleaned this thoroughly, or it didn't go all the way in at all. It was only on the outside, only on the surface, and that's all that it ever was. It could be any of those things and I can't tell you which of those it is.

Q. Because they're all just hypotheticals at this point in time; right?

A. Well, they're hypotheticals that are consistent with the evidence that we have in the case and they're also realistic. The hypotheticals you've been throwing at me don't seem to be bounded by realism.

Q. My question is, wherever this hypothetical clog occurred, it was in contact with this valve stem; correct?

A. Yes.

Q. And at no time during your examination of the pot did you remove the valve stem to examine it; correct?

A. That is still true, yes.

Q. And did you ever consider looking at the valve stem during your examination?

A. Well, we did look at it externally, but I don't think we ever considered disassembling and removing it.

Q. Disassembling is just popping the cap off and letting it fall into your hand; right?

A. Yes.

Q. No tools are required?

A. No. No, but it does -- it does require you to take the cap off, which means that you'll never be able to get it on exactly the same way it was before, so that's why I didn't feel like we needed to change it.

MR. CALLAHAN: That's all I have. Thank you.

THE WITNESS: Okay.

MR. KRESS: Nothing here.

THE VIDEOGRAPHER: This completes the videotape deposition. The time is 6:45. We're now going off the video record.

(Witness excused.)

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(Deposition concluded at 6:45 p.m.)

CERTIFICATION

I, JARED E. BITTNER, RPR and NJ CSR License No. 30XI00235600, do hereby certify that prior to the commencement of the examination, DAVID RONDINONE, was duly remotely sworn by me to testify to the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a verbatim transcript of the testimony as taken stenographically by me at the time, place and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in this action.

Jared E. Bittner

JARED E. BITTNER, RPR
NJ CSR No. 30XI00235600
Notary Public
Dated: September 15, 2022

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